University of Alberta

Law, Literature, Location: Contemporary Aboriginal/Indigenous Women's Writing and the Politics of Identity

by

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Abstract

This dissertation examines the importance of legal and legislative texts to an analysis of aboriginal/indigenous women's literary production. It juxtaposes, law, legislation, and literature to argue that an important grounding for reading social and cultural texts by aboriginal/indigenous women writers emerges not only through the literature's expression of "nativeness," that is, through its commitment to a community constituted through various identity discourse, but also by investigating the social and political contexts that emerge for these writers in legal and legislative texts. Its central question asks: how often is it the case that the conditions of production which inform aboriginal/indigenous women's writing are related to matters before the courts? This question serves as the organizing framework within which contemporary writing by aboriginal/indigenous women from Canada and the United States is explored.

The study begins by discussing the problematics of representation for aboriginal/indigenous peoples who have sought access to legal intervention through the courts. It explores how court cases assert a raced subjectivity for aboriginal/indigenous people that informs the logic of the court's decision-making process. Next, it analyses how this legal context impinges on literary/critical debates about the politics of aboriginal/indigenous women's writing to illustrate how literature critiques state-imposed categories of race and gender subjectivity so as to assert cross-cultural community affiliations.

Chapter One examines Maria Campbell's *Half-breed* for its engagement with the problem of community affiliation articulated by the reinstatement claims of Jeannette Lavell and Yvonne Bedard, two Native women who were disenfranchised from their

Native communities following their marriages to non-Native men. Chapter Two turns to the problem of social justice raised by Leonard Peltier's trial and conviction so as to illuminate how Jeannette Armstrong's novel, *Slash*, critiques progressive political movements for perpetuating conventional gender politics. Chapter Three reads the Zah Zay case for its imposition of colonial identity categories to settle a land claim dispute on the White Earth Indian Reservation in Northern Minnesota. Winona LaDuke's *Last Standing Woman* and Louise Erdrich's *The Antelope Wife* are read as providing a counter discursive space through indigenous feminist community to the polemical identity narratives imposed by the law and Congress.

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Introduction

The Politics of Location, the Location of Politics

In 1985, the Canadian government passed Bill C-31, an Act to amend the status and band membership provisions in *Indian Act* legislation. The Act stipulated that it would "substitute for the existing scheme of band membership a scheme that provides band control of membership," eliminate provisions "relating to entitlement to registration that discriminate on the basis of sex and . . . replace them with non-discriminatory rules for determining entitlement," and remove the "distinction between 'legitimate' and 'illegitimate' children" so as to "provide for the reinstatement of persons who have lost their entitlement to registration under discriminatory provisions or, in certain cases, through enfranchisement" (2a).

As a reformulation of *Indian Act* legislation, Bill C-31 complicated and extended an already fraught system of race and sex discriminations represented by the colonial government's creation of a distinct legal status for aboriginal peoples in the *Indian Act* of 1869, an act which articulated the most trenchant example of legalized sexual discrimination against aboriginal women. Although fundamentally discriminatory in nature and formulated without the consent of Native peoples, the *Indian Act* stipulated in subsection 12(1)(b) that Indian women marrying "any other than an Indian" lost their status and treaty rights such that they could no longer own property on the reserve and were prevented from inheriting property (Green 82, 94). The discriminatory nature of the *Indian Act* of 1869 built on existing legislation formulated in the assimilationist policies of the Act of 1857 which stipulated that Indian women married to Indian men who were voluntarily or involuntarily enfranchised were automatically enfranchised along with their minor-age children. These provisions consolidated the state-enforced notion that Native women were primarily the property of first their fathers and then their husbands, and established the criteria for determining Indian status through the patrilineal line of descent (Green 94).

The amendments proposed by the passage of Bill C-31 to alter the status and band membership provisions of the *Indian Act* positioned the question of the reinstatement of disenfranchised aboriginal women at the center of conflict between band councils and the federal government over the issue of band membership. Although it restored status to those who had lost it under subsection 12(1)(b) of the *Indian Act*, reinstated first-generation children of restored persons, and abolished the concepts of enfranchisement, the Bill rescinded the determination of membership from the jurisdiction of Native bands to the control of the federal government and exacerbated the problems of self-determination and treaty rights within Native communities. Within the space generated by the government's assumption of control of these provisions emerged a subjectivity for aboriginal women and their descendants who, reinstated under Bill C-31, were confronted with either becoming the subjects of racist discrimination by the federal government under *Indian Act* legislation, or the targets for gender discrimination by band members who resented the government's intrusion on band authority.

The passage of Bill C-31, in its reformulation of aboriginal/indigenous[1] women's subjectivities within the nation state, locates a story of gender relations that prioritizes the constitutive effects of colonial legislation to account politically for the identities of aboriginal/indigenous women and their relationships to indigenous communities. This dissertation sets out to offer another. It begins with the recognition that the social, cultural, and community relations articulated through political events such as the passage of Bill C-31 are necessarily interconnected and historical and informed not only by questions of identity and politics—issues that incorporate our current focus on reinstatement issues—but also by the need to recover a more complex understanding of aboriginal/indigenous women's positioning in history. It starts with the premise that a consideration of aboriginal/indigenous women's social subjectivity must of necessity recognize the influences of law and legislation to their socio-cultural inheritances because, as illustrated by the amendments to Bill C-31, these subjectivities have served as targets for racist policies of colonial management by the state and as objects for gender organization within aboriginal/indigenous communities, leading to a one-sided view of aboriginal/indigenous women's experiences in political discourses. As Sherene Razack explains in "Speaking for Ourselves," commenting on the relationship between law and gender analysis: "[I]n law, the issues that preoccupy women . . . are all issues that emerge out of a male-defined version of female sexuality. Abortion, contraception, sexual harassment, pornography, prostitution, rape, and incest are 'struggles with our otherness,' that is, struggles born out of the condition of being other than male" (Razack 111, qtd in Monture-Okanee 241). To recover the stories of aboriginal/indigenous women so as to complicate the representation of their "otherness" in relation to dominant narratives of politics and government, I turn to colonial historiography as it is illustrated in the texts of law and legislation. Such a turn seems necessary given Homi Bhabha's recognition that: "In order to understand the cultural conditions, and the rights, of migrant and minority populations[,] we have to turn our minds to the colonial past, not because those are the countries of our 'origins,' but because the values of many so-called 'Western' ideals of government and community are *themselves* derived from the colonial and post-colonial experience" (Bhabha, "Unpacking My Library . . . Again" 209). The significance of aboriginal/indigenous women's writing in its engagement with colonial and post-colonial experience represents one discursive arena that this dissertation seeks to address.

Yet, it also important to recognize that these narratives exist in tension with aboriginal/indigenous community practices and with the acts of self-representation of these communities. For this reason, I also explore the representation of aboriginal/indigenous women in literary texts. By juxtaposing law, legislation, and literature, I hope to untangle a context for aboriginal/indigenous women's writing that will enable me to draw conclusions about how their subjectivity has been articulated through narratives constitutive of the nation state. I also wish to propose a relationship between race and gender identity that explains the importance of legal and legislative texts to an analysis of aboriginal/indigenous women's literary production. The organizing question for my dissertation thus asks: how often is it the case that the conditions of production which inform aboriginal/indigenous women's writing have to do with matters before the courts? I raise this question in each of my chapters by taking up a methodology that begins with a court case, analyses its implications, and discusses a literary text by an aboriginal/indigenous author in order to explore the counternarrative to state discourses offered by the literary text. One underlying premise of this dissertation is that an important formulation for grounding the reading of social and cultural texts by aboriginal/indigenous women writers emerges not only through the literature's expression of "nativeness,"[2] that is, through its commitment to a community constituted through various identity discourses, but also by examining the social/political contexts that emerge for these writers in legal and legislative discourses.

However, such a reading of literary practices by aboriginal/indigenous women writers risks appearing to relativize the material relations between law and literature and to treat these relations in the same way. To avoid misrecognizing the implications of reading law and literature together, I will turn briefly to the work of Louis Althusser, whose analysis of law's relation to the social formation as both an ideological and repressive state apparatus informs my discussion of legal texts. One of the key problems raised by Althusser in his essay "Ideology and Ideological State Apparatuses" is the question of agency and its relationship to the subject. His analysis is important to my dissertation research because his work on ideology explains how discourse works through ideology at the level of the individual to interpellate its subjects. In an explanation of the "double constitution" effect of ideology, Althusser claims that the notion of the subject is integral to the workings of ideology not only because "the category of the subject is the constitutive category of all ideology," but also because "*all ideology has the function (which defines it) of 'constituting' concrete individuals as subjects*" (93). For Althusser, the interplay between these two terms, "ideology" and "the subject," produces the imagined relations that articulate "governed practices" which "exist in the material actions of a subject acting in all consciousness according to his belief" (93). Thus, for Althusser, we can grasp the articulation of these material forms, but we do so in their imaginary relations through discourse, which nevertheless, represents "material forms of existence" (93). It is these material forms which, Althusser claims, retain the notions of "subject, consciousness, belief, actions" that are central to a conception of human selves as agents and that enable a reading of intention and action.

In this dissertation, I undertake an analysis of legal texts for what they reveal about the subjectivity of law as it illuminates "subject[s], consciousness, belief[s], actions," but I do so with a further recognition from Althusser's work, that is, that my entry point for this analysis begins at the level of a "descriptive theory" and is necessarily a "transitional one," since it presupposes, in its initial stages, "the decisive principle of every later development of the theory" (69, 70). For Althusser, such a stage is essential to the contradiction represented by theoretical work. As he explains, on the one hand, the "descriptive theory really is . . . the irreversible beginning of the theory," and, on the other, "the 'descriptive' form in which the theory is presented requires . . . as an effect of this 'contradiction,' a development of the theory which goes beyond the form of 'description'" (69). Althusser cautions that the "descriptive" elements of a theory often "run the risk of 'blocking' the development of the theory," even though, for him, this development "is essential" (70). To sustain the necessary building blocks of a descriptive theory and to facilitate its advancement to the level of theory as such, Althusser suggests that "it is indispensable to *add* something to our classical definitions of the state," and he argues that the "necessary concept" is "ideology" (72). For Althusser, the concept of ideology enables the theorist to explain how the reproduction of the relations of production materializes and allows him to distinguish between the institutional representation of these relations through ideological and repressive state apparatuses, and the subject's articulation and emplacement within them.

In Althusser's view, the reproduction of relations of production occurs not only at the level of state power but also at the level of ideological (ISAs) and repressive (RSAs) state apparatuses (72). These social formations represent the key intervention in Althusser's theory that explains why state apparatuses continue to exist and to exert power even if there has been a change in government (71). For Althusser, both the ISAs and the RSAs constitute repressive state processes, but the ISAs exert force relations "by ideology" and the RSAs apply force "by violence" (73). Importantly, for my discussion here, Althusser claims that law functions through both repressive state measures and ideological ones. As he claims, "The 'Law' belongs both to the (Repressive) State Apparatus and the system of the ISAs" (73). Conceived as an apparatus that works both at the level of ideological effect and through force relations, the legal apparatus thus represents a significant discursive arena within which to uncover the subjectivities of aboriginal/indigenous peoples as they are formulated within the nation state. As I demonstrate in this dissertation, legislation represented by Bill C–31 represents merely the 'tip of the iceberg' with regard to colonial legislation and legal processes in Canada and the United States which have sought to manage and contain aboriginal/indigenous peoples as subjects. My contribution to discussions of the materiality of law and legislation, then, is to focus on and unpack its gendering of aboriginal/indigenous women.

The discussions of law through legal texts that follow in these chapters may be understood as descriptions of law's functioning that assert a starting point for developing a more extended critique and theory of how law organizes itself in relation to aboriginal/indigenous peoples. In some cases, I am able to explain legal processes through recourse to the work of Jacques Derrida and Pierre Bourdieu, but for the most part, my argument examines the texts of law by taking up historical narratives represented by colonial legislation and by describing the ideological implications of legal discourse. Such work I understand to fall within the parameters of discourse analysis, yet my overall intention is to explain how these texts function as either repressive or symbolic forms of violence and to situate literature as responses to these imposed conditions. The work I begin here with regard to legal texts is necessarily provisional and descriptive, especially because I lack formal training in this area. Where possible, however, I have attempted to distinguish between legal culture, as an apparatus, from commonsense or normative understandings of law. This recognition seems necessary given the general ethos in which law circulates and is increasingly deployed as a measure of the "liberatory or egalitarian force of rights" (Brown 97). As Wendy Brown argues in "Rights and Losses," "While the traditional left critique of rights focuses on the law's decontextualization of persons from social power, the critique of contemporary legal efforts to *achieve* such contextualization, to recognize subjects as 'effects' of social power, might be precisely that it reifies these effects, marking with a reactionary permanence the production of social subjects through, for example, 'race,' 'gender,' or 'sexuality'" (100 note 9). Bearing in mind Brown's caution against reifying identity as it is staged in law, my discussion serves to disclose how the logic of representation embodied by legal discourse attempts to stabilize and thus to control disparate notions of aboriginal/indigenous identity. In its examination of literature produced by aboriginal/indigenous women writers, my dissertation seeks to offer alternative frameworks for conceptualizing identity and community to those instituted by colonial legislation and legal texts. It seeks to unravel a "law-literature dialectic of representation"[3] that complicates the politics of location by foregrounding the legal apparatus as a constitutive site for the location of politics. Such a project is undertaken to provide one important formulation of a discursive register within which to read aboriginal/indigenous women's writing.

Before turning to a discussion of the arguments taken up by individual chapters, however, I wish to provide a brief genealogical history of the significant legal definitions and legislation that have worked to differentiate aboriginal/indigenous identity formation within the nation state. I discuss both the Canadian and the United States context, but I wish to recognize this imposed border as an arbitrary boundary between historically interconnected aboriginal/indigenous communities. It remains constitutive, however, of discrete legal and legislated identities for aboriginal/indigenous peoples within the nation state, which I discuss as distinct from each other. I also examine in this introduction not only legal texts and legislation but also literary texts that suggest thematically the significance of this political and social context. I provide an overview of the literature that lends itself to an exploration of the interconnections between law and literature so as to illustrate how extensively the relationship between law, legislation, and literature has been introduced by aboriginal/indigenous writers. My purpose in providing this overview is to illustrate an alternative comparative framework for imagining a "canon" of aboriginal/indigenous writing, one that does not privilege its national designations but rather its positioning through the contours of historical, tribal, and gender identity formation. To date, literary/critical debates within the field of aboriginal/indigenous writing have focused on relations of race and gender without exploring the significance of legal and legislated identities to the literature, while legal and legislative discourses have foregrounded the importance of identity, without attention to the interrelationships between legislation, law, and literature in connection with aboriginal/indigenous women's writing. These narratives, in effect, continue to be theorized as discretely organized rather than interrelated discourses. My research in this dissertation works to articulate the importance of theorizing these discourses together. [4]

Colonial Im/Positions: First Nations & American Indians[5]

First Nations is a contemporary term of historical and political significance that has been appropriated by Canadian aboriginal communities to designate a group of people with a shared language, culture, and history who identify with each other as belonging to a common political entity. The term reconceptualizes the misnomer "Indian" used historically in legislation and statistics, and indicates the continuing socio-legal status of aboriginal peoples under Canadian law as the signatories of treaties and land claim settlements, and as bands under the *Indian Act* (Woodward 6). The term is a political appellation distinct from the designations "Métis" and "Inuit" but does not replace individual, culturally specific tribal names (e.g. Mi'kmaq, Dene). Because of its imbrication in government policies, it suggests the need for attention to the culture-specific names through which the First Peoples of Canada and the United States articulate themselves and their communities. It also elides the political specificities of Métis and Inuit communities, which distinguish themselves from First Nations groups despite Canadian government attempts to collapse these differences through collective forms of representation in the Constitution Act of 1982.

Aboriginal issues in Canada include land claims, self-government, sovereignty, recognition of treaty rights, recognition of cultural diversity and renewal, and enhancement of educational and economic opportunities. Aboriginal women's issues intersect with those of their communities on two levels: at the formal level of negotiating for the reinstatement of Native women and men who were voluntarily and involuntarily disenfranchised through government legislation; and at the practical level of calling for a reconstruction of aboriginal family life through the combined efforts of Native women and men.

Aboriginal women express concerns for themselves and for their families that have less to do with a commitment to gender parity in the dominant society than with reconstructing their historically fractured roles within their communities. The issues they prioritize for effecting change toward a future vision of themselves as self-governing, self-determining peoples include "the *Indian Act* and Bill C-31 amendments; health and social services that are culturally appropriate, with a priority focus on healing; the vulnerability of women and children to violence; and accountability and fairness in self-government" (*Royal Commission on Aboriginal Peoples* 21). Since an important aim of aboriginal self-government is to avoid the imposition of Canadian norms and institutions, and because the common vision of aboriginal women entails the values of kindness, honesty, sharing, and respect, the question emerges for feminist theory of how to represent the concerns of aboriginal women while remaining attentive to their demands for new forms of political community and holism that reflect their diverse situations. The work I undertake in my first chapter proposes a provisional answer to this question through a conceptualization of aboriginal feminist practice that focuses on issues raised by the problem of disenfranchisement, and brought into visibility as a socially regulated gendered phenomenon in Maria Campbell's *Half-breed*. Campbell's autobiography, I suggest, articulates the need for an aboriginal feminist practice that privileges women's needs as well as women's rights.[6]

In the context of the formulation of American Indian identities in the United States, the policy by European Crowns and the United States government of entering into government-to-government negotiations with American Indian peoples preserved the formal recognition of American Indian communities as sovereign nations within the United States in spite of consecutive attempts by federal governments to disregard treaties and to erode American Indian tribal sovereignty. Between the period of 1778 and 1871, the United States government ratified more than 371 separate treaties with indigenous communities and continued to seek treaty relationships with American Indian peoples until as late as 1903. Vine Deloria Jr. and Clifford M. Lytle have formulated the term "nations within" to describe the legal entitlement of American Indian peoples to retain distinct land bases and to conduct themselves as sovereign nations within the political and geographical ambit of the United States (4). Colonial legislation, however, has persistently sought to limit or extinguish the tribal-federal relationship by expropriating the lands of American Indian communities through policies of removal and assimilation and by intruding on tribal jurisdiction through a series of laws designed to undermine tribal authority. The formulation of the *Indian Removal Act* in 1830, which enabled the forced relocation of American Indian peoples east of the Mississippi to an "Indian Territory" in the west already occupied by indigenous communities, was followed in 1887 by the *General Allotment Act*, which undermined traditional practices of kinship and collective land tenure by allotting lands held in trust by the community to individual homesteads and by instituting a federal program for identifying American Indian peoples according to "blood quantum" codes. "Full blood Indians" through the allotment system were deeded with "trust patents" over which the federal government exercised full control for twenty-five years; "mixed blood Indians" were deeded with "patents in fee simple" over which they exercised rights but for which they forfeited tribal membership (Churchill and Morris 14). Estimates suggest that during the allotment period alone, American Indian peoples were forced to relinquish some 86 million acres of land, with surplus reserve lands opened to European settlement, corporate utilization, and incorporation into national parks and forests. Contemporary American Indian issues include treaty rights, land claims, sovereignty, religious freedom, language retention, and restoration of social and cultural community practices. The question of blood quantum identity and its continuing presence within contemporary legislation and legal cases as a divisive policy of colonial management persists as a problem in American Indian communities. It is one that I explore in the third chapter of my dissertation, which focuses on a contemporary land claim dispute from the White Earth Indian Reservation in Northern Minnesota.

Native North American Literary Traditions

The literatures of Native North America comprise more than thirty thousand years of history, as many as three hundred individual cultural groups, and over two hundred different languages, as well as dialects, derived from seven basic language families. The genre of aboriginal/indigenous writing incorporates both oral and written literary traditions and reflects the diverse forms that economic, social, and political organizations have taken within American Indian communities. Aboriginal/Indigenous oral traditions reside as distinct forms of interaction among tribal peoples and include within their multiple genres ceremonial performance, liturgy, oratory, creation narratives, ritual drama, and "as-told-to" autobiographies. Aboriginal/Indigenous written genres incorporate the influences of Euroamerican literary traditions and reflect an inheritance of continuity and cross-cultural encounter in a wide range of critical essays, histories, autobiographies, fiction, poetry, and drama. Contemporary Native North American writing in English is distinct in form and language from oral and written tribal traditions. Yet it continues to foster a series of worldviews and values that recall its origins in tribal practices. These include a deep reverence for the land, a strong sense of community, the importance of living in harmony with the spiritual and physical universe, and the recognition of the power of word and thought to maintain continuity and balance (Petrone "Aboriginal Literatures (Canada)" 4; Ruoff 2).

The current popularity of aboriginal and indigenous writing may be attributed to its success in representing the cultural distinctiveness of First Peoples literary traditions. Some of the best examples of this achievement include Andrew Wiget, *Handbook of Native American Literature*, A. LaVonne Brown Ruoff, *American Indian Literatures*, Kenneth M. Roemer, ed., "Native American Writers of the United States," *Dictionary of Literary Biography*, and Penny Petrone, *Native Literature in Canada*. Each of these texts focuses on the development of the writing from its beginnings in the oral traditions of aboriginal/indigenous peoples represented by speeches and diaries to its contemporary form in poetry, fiction, and drama; yet, the objectives of these works remain to situate the literature within an emerging canon of aboriginal/indigenous literary production and to thematize the issues that emerge cross-culturally within this writing by authors from discrete cultural, social, and political locations.

Although not foregrounded in the methodological approach of the previous collections, the literature, nonetheless, remains imbricated in a history of colonial struggle to reassert the political, cultural, and intellectual integrity of aboriginal/indigenous peoples and to secure the recognition of First Peoples communities as sovereign nations within the geographical boundaries of Canada and the United States. Aboriginal/Indigenous writers examine these issues, and participate in a process of cultural recovery and renewal by exploring the influences of colonial policy in their lives and by challenging a history of colonial occupation through their narrative interventions. Their strategies for reconstructing and restoring cultural traditions include articulating the effects of assimilationist policy on aboriginal/indigenous communities, assembling through creative and critical writing the innovative ways in which First Peoples cultures have continued to survive and evolve, and recovering the historical and political interventions that indigenous cultural critics have made to preserve tribal traditions.

The development of writing by aboriginal authors since the 1960s—the literary period with which this dissertation is most concerned—has been characterized by several definitive texts, which articulate themes such as loss of cultural cohesion, encounters with institutional racism, and renewal through homecoming. Penny Petrone in "Aboriginal Literature: Native and Métis Literature" suggests that this contemporary publishing trend may be attributed to debates surrounding the 1969 "Statement of the Government of Canada on Indian Policy," the "controversial 'White Paper'" that "recommended the abolition of special rights for Native peoples" and "sparked a burst of literary activity"

(9-10). Petrone explains this expansion in publishing through "self-conscious, protest literature" as arising out of a strident tone and political orientation that drew attention to the plight of aboriginal peoples in Canada (10). Maria Campbell's *Half-breed* is representative for Petrone of the harsh tone and "sloganistic language" of these texts. Greg Young-Ing, by comparison, suggests a different explanation for the literary momentum of the 1960s and 1970s. For Young-Ing, the "quantity of writing by Aboriginal authors" reflects not only political activism but also the "fact that this was the first generation of Aboriginal people not to be subjected to residential schools, many of whom were able to learn to write by attending [c]ollege and [u]niversity" (183). My own view is that the literature corresponds with other forms of social activism that were taking place through the Red Power Movement in Canada and the United States, which also influenced publishing trends. I explore this movement through a discussion of the historical development of the American Indian Movement and literary responses to it in chapter two of my dissertation. Novels that also portray the development of political consciousness through encounters with the dominant society and the problems of socio-economic inheritances for aboriginal women include Beatrice Culleton Mosionier's *In Search of April Raintree* and Lee Maracle's *Bobbie Lee, Indian Rebel*. A counterpart to these stories, which follow the generic conventions of a female bildungsroman, may be found in novels such as *Medicine River* by Thomas King and *Keeper 'n Me* by Richard Wagameese, both of which narrate the quest for community identification and acceptance for male protagonists through homecoming.

In the development of contemporary American Indian writing, the loss of American Indian tribal homelands and the ambiguity surrounding modern tribal identity represent two important themes for contemporary Native American writers who examine the effects of American Indian policy on modern tribal nations. Diane Glancy's *Pushing the Bear* explores the tensions that develop within a Cherokee family when their lives are disrupted by their forced removal from their traditional homelands in the southeastern United States to an "Indian Territory" in the southwest. Glancy's novel imaginatively reconstructs the 1838 relocation of thousands of Cherokee, Creek, Chickasaw, and Choctaw peoples along the "Trail of Tears" to offer a more complex understanding of the intersections of American Indian identity with colonial policies of invasion and dislocation. Similarly, Louise Erdrich's *Tracks* examines the erosion of tribal values within a Chippewa community as a result of the breakdown of the extended family unit and the betrayal of Chippewa treaty rights through forced settlement on land allotments during the allotment period. The novel connects the issues of inter-family conflict, fear of abandonment, and destruction of community values to the systemic betrayal of the Chippewa peoples whose trust in the treaty arrangements has been violated by the negligence of the Bureau of Indian Affairs and profiteering band members. A more pronounced treatment of the betrayal of community interests and the disregard for human life emerges in Linda Hogan's *Mean Spirit*, a novel that documents the indifference of the federal government to a series of suspicious deaths within the Osage community in the 1920s. Hogan's narrative illustrates how the government's failure to protect the rights of indigenous peoples in "Indian Territory" leads to their financial dispossession and murder when federal officials refuse to act on their behalf and they become the targets of corrupt local officials. The themes of corruption and violence also emerge in James Welch's historical novel, *Fool's Crow*, which dramatizes the violation of American

Indian treaty rights among the Plains Indian peoples in a moving portrayal of the final subjugation of the Blackfeet people by the United States cavalry. In an ironic comment on the legal status of treaty documents, Welch illustrates how the U.S. cavalry attacks and kills a peaceful gathering of Pikuni Blackfeet even as their leader attempts to shield the community behind the treaty's written guarantee of "peace and friendship" (Allen, "Postcolonial Theory" 77–78). The historical novels of Hogan and Welch critique the policies of a colonial government which insists on its right to intervene and reconstruct indigenous communities yet fails to uphold the rights of American Indian peoples to legal protection. Simon Ortiz in *From Sand Creek* has also documented the legacy of injustice inherited by indigenous peoples in a series of poems that memorialize the betrayal of American Indian interests to colonial America's relentless westward expansion. "Sand Creek," "Marias River," and "Wounded Knee" represent paradigmatic sites within contemporary American Indian literature as writers recast the dominant narrative of progressive westward expansion in a counter narrative that reclaims a history of dispossession as a historical context for reading contemporary American Indian literatures. Though sometimes represented as "protest literature" for its narrative exploration of historical instances of massacre, genocide, and cultural disappearance, the novels and poetry of contemporary Native North American writers resist containment as chronicles of victimization by asserting the continuity and strength of aboriginal/indigenous peoples in reconstructing and renewing their cultural traditions.

Resistance and Renewal or Literary Decolonization: The U. S. Context

The publication in 1968 of N. Scott Momaday's *House Made of Dawn* marks a watershed moment in the development of the field of contemporary American Indian literatures. In contrast to a range of historical and ethnographic texts that sought to predict the decline of American Indian peoples and that popularized images of American Indians as either "noble savages" or "uncivilized brutes,"[7] Momaday's novel asserted the integrity and strength of Native American cultural practices, and offered a vision of their integration with contemporary storytelling traditions in literatures by American Indian authors. The renewal of interest in narratives by and about American Indian peoples—prompted in part by Momaday's Pulitzer Prize winning novel—inspired the publication of a range of texts that focused on the lives of American Indians and that explored the complexities of their relationships with each other and with the ongoing effects of colonialism within their communities. Kenneth Lincoln proposed the term "native american renaissance" to describe the renewal of interest in literatures by indigenous peoples and to define the practice by American Indian authors of transforming the disruptions of the colonial past into expressions of cultural revival in the present (5). Many of the dominant themes of this revival include explorations of diaspora and displacement, racism, cultural conflict, exile, mixed-blood identity, and cultural continuity.

At the forefront of this "renaissance" is a collection of writing that examines the intersections between conflicting cultural values and the legacy of colonial exploitation among indigenous peoples. N. Scott Momaday's *House Made of Dawn* explores how the issues of cultural dislocation and spiritual exhaustion trouble a young man on his return from World War II. The story illustrates the protagonist's struggle to reconnect with his tribal community in the aftermath of his participation in the Second World War, his relocation to Los Angeles following a homicide, and his journey to self-recovery through the cultural traditions of his people. The invocations of oral and written storytelling traditions in Momaday's narrative, and his portrayal of the tension between traditional and assimilated lives, represent two of the distinguishing features of the narrative that asserts the importance of self-recovery and spiritual renewal through cultural connection with the community. Momaday's novel, in its treatment of the issue of cultural dislocation and loss of identity, recalls the earlier work of D'Arcy McNickle in *The Surrounded*, Zitkala–Ša in *American Indian Stories*, and Pauline Johnson in *The Moccasin Maker*, all of whom explore the issue of cultural disconnection for aboriginal/indigenous people who have been forced to relocate to non-native schools through government policies of compulsory assimilation and separatism. In contrast to the cultural barriers of racism and assimilation considered in writings by McNickle, Zitkala–Ša, and Johnson, Leslie Marmon Silko's *Ceremony* examines the relationship between contemporary moments of cultural imperialism and the federal government's policy of violating American Indian land sovereignty by mining the communities for their natural resources. In *Ceremony*, Silko illustrates how Tayo's recovery from his participation in the political and racial violence of the Vietnam War depends upon his recognition of the ongoing environmental exploitation of indigenous communities by corporate America. The relationship that Silko proposes between economic colonialism and cultural violence has become an important topic in contemporary American Indian writing, particularly for writers such as Joy Harjo, Wendy Rose, and Chrystos, whose poetry examines the intersections between racial and economic exploitation in the lives of working-class, lesbian, and mixed-blood American Indian people.[8] The problem of economic exploitation is also a prominent theme in Linda Hogan's *Solar Storms*, a novel that traces the widespread social, cultural, and environmental damage that occurs within a community following the installation of a hydroelectric dam. Writers such as Silko, Harjo, Chrystos, and Hogan censure the values of consumerism and commodification that predominate in contemporary American society and critique the practices of corporate America for its exploitation of the lands and cultures of American Indian peoples. Their writing illustrates how the federal government's persistent refusal to recognize the political autonomy of American Indian nations impedes the process of cultural reconstruction and enables the government's continued economic exploitation within them.

In addition to exposing the issues of ethnocentrism and economic imperialism that underlie the appropriation movement, creative and critical writers such as Gerald Vizenor and Thomas King have devised an alternative aesthetic tradition that reconfigures the mythic trickster figure of tribal discourse from a multifaceted cultural hero to a contemporary symbol of contradiction and instability. In *Dead Voices*, Gerald Vizenor constructs a "crossblood" figure that challenges popular notions about identity and knowledge and produces a postmodern liberatory space in which contradictory histories and languages can emerge. Thomas King in *One Good Story, That One* and *Green Grass, Running Water* deploys the trickster figure in narratives that illustrate the ethnocentrism within dominant Eurocentric cultural traditions while undermining the cultural arrogance on which they rely for their authority. Although the issue of cultural imperialism has been addressed by a number of American Indian writers, the problem remains a significant one as it continues to work in tandem with the dominant misconception that indigenous communities are merely cultural enclaves passing through a stage of history rather than sovereign nations with distinct political, social, and cultural institutions and traditions.

Sovereign Nations/Cultural Enclaves

Contemporary American Indian critics encounter the difficulties of defining the field of Aboriginal/Indigenous literatures when the constitutive features of the literature are constrained by questions of authenticity and identity. Rather than reinscribe structures of identification that originated in colonial policies based on blood quantum codes, and in order to expand the range of creative and critical material beyond a narrow focus on the contemporary moment, aboriginal/indigenous literary critics have sought a two-fold "tribal-centered criticism" (Blaeser 53) that, on the one hand, reconnects the values and worldviews of aboriginal/indigenous peoples with a contemporary literary critical framework, and, on the other, undertakes recovery work to broaden rigid prescriptions on subject matter that overlook aboriginal/indigenous intellectual traditions. Paula Gunn Allen's *Grandmothers of the Light: A Medicine Woman's Source Book* (1991) proposes a "gynocratic" reading of Native American literature that emphasizes the concepts of balance and interconnectedness and that foregrounds the values of personal autonomy, communal harmony, and egalitarianism found within traditional oral narrative forms. Allen's critical practice contests the incorporation of Native American literatures within dominant Western perspectives and challenges paternalistic readings of Native literatures that have elided the role of women.[9] In a similar critical style, Robert Allen Warrior argues for the autonomy of American Indian intellectual traditions in his recovery of the work of Vine Deloria Jr. and John Joseph Matthews in *Tribal Secrets: Recovering American Indian Intellectual Traditions*. Like Allen, Warrior politicizes literary aesthetics in his contention that American Indian literary practices need to be assessed from a materialist perspective that considers both the historical circumstances from which they emerge and the political associations of their producers (xx). His work has been instrumental in redefining the field of American Indian literary studies from an emphasis on issues of identity to a consideration of the influences of earlier indigenous cultural critics on contemporary writers. In contrast to Warrior's focus on the imbrication of historical forces with literary narratives, Jace Weaver's *That the People Might Live: Native American Literatures and Native American Community* suggests a contrapuntal reading that eschews distinctions between tribal and mixed-blood, rural and urban to argue for a conception of American Indian literatures as "communitist" in its proactive representation of the values, world-views, and intellectual traditions of Native American communities, and in its restorative ability to advocate personhood and representational sovereignty for Native American peoples. The work of Paula Gunn Allen, Robert Allen Warrior, and Jace Weaver represents just a few of the many critical practices by indigenous critics that recognize the historical, cultural, and political embeddedness of American Indian literary traditions within contemporary America, yet also express the distinctiveness of these cultural traditions through the formulation of discrete concepts and world-views that emerge from the literature.

Craig Womack has also participated in this movement by articulating the ethics of a critical approach that begins with "meaningful literary efforts" to constitute "such a thing as the Native perspective" (4). Womack explores this viewpoint in conjunction with "the idea that Native literary aesthetics must be politicized and [with the idea] that autonomy, self-determination, and sovereignty serve as useful literary concepts," because, as Womack claims, "literature has something to add to the arena of Native political struggle" (11). Through his discussions of culturally specific, Creek literature, Womack articulates a "literary criticism that emphasizes Native resistance movements against colonialism, confronts racism, discusses sovereignty and Native nationalism, seeks connections between literature and liberation struggles, and, finally, roots literature in land and culture" (11). His project is to restore both cultural history and community practices to literary analysis so as to "find Native literature's place in Indian country, rather than Native literature's place in the canon" (11).

Womack's methodology, which connects literary representations to their tribal contexts, demonstrates an innovative approach to indigenous literary practice; yet it is also rather discrete in conceptualization in that it reinscribes the autonomy of Creek literature as distinct from other literary practices rather than foregrounds its interrelationships with other literary influences. By comparison, Gerald Vizenor's critical approach to defining indigenous literatures is less interested in problems of terminology and canon formation, especially in debates over terms such as "native american renaissance" (Womack 10) as a descriptor for the development of the field of aboriginal/indigenous writing. Instead, Vizenor infuses creative/critical writing with an insistence on the continuities between a native "storied presence" that connects "an actual presence in the memories of others" to the "tragic wisdom of native survivance" in the present. For Vizenor, colonial practices of absorption and transformation are much more ambiguous in their effects, not only instituting a series of agential strategies that "overburden native memories, associations, and communities" but also signifying the "assurance of a native historical presence" (188). In Vizenor's view, the question is not whether or not indigenous communities have continued to survive and evolve, but rather how to conceptualize their ongoing presence through "oral histories, treaties, and other literary sources" (185). Since "postcolonial" as a descriptive term has been resisted by critics of aboriginal/indigenous literatures for categorizing the relationship between literary production and contemporary America,[10] the challenge for a project interested in literary decolonization is to articulate a connection between literature and liberation struggle that can attend to the specificities of the historical and legal status of treaty relationships between aboriginal and indigenous peoples in Canada and the United States, without overlooking contemporary forms of cultural and literary expression by aboriginal/indigenous authors. It is here that this dissertation undertakes a contribution to this literary/critical field by exploring how legal texts and legislation provide a context for interpreting the literature of aboriginal/indigenous women writers.

To locate a methodology and reading practice that is alert to the historical specificity of aboriginal/indigenous women's experience and to articulating relations of gender formation as they occur through the law-literature dialectic, I draw on Joan Scott's explanation of gender relations as requiring a substantive, two-fold approach that conceptualizes gender identity both as a way of descriptively understanding "perceived differences between the sexes" and as "a means of signifying relations of power" ("Gender" 42).[11] Scott's theory of gender formation foregrounds gender analysis as a field of critical inquiry and as a methodology, which takes as its critical project the explanation of cultural practices and representations relative to social relations of power. I adopt Scott's approach to gender relations because it is flexible enough to allow me to describe the specificity of historical discourses represented by law and literature, yet broad enough to retain gender as a category within which to locate the subjectivities of aboriginal/indigenous women. In foregrounding Scott's important insight that "history is written as if these narrative positions were the product of social consensus rather than conflict" (43), my discussion of aboriginal/indigenous women's writing explores how the appearance of "social consensus" masks the recognition that relations of power are organized through, yet often disavowing of, gender identity as a normative category. I have thus confined my analysis here to an examination of specific texts in which conflicted interpretations of aboriginal/indigenous women's subjectivities appear as normative in order to secure a semblance of social consensus that disguises relations of power within the nation state.

My dissertation is organized into three chapters, each of which begins by laying out the problematics of representation for aboriginal/indigenous peoples who have sought access to legal representation through the courts. I discuss how each case asserts a raced subjectivity for the individual and her/his community that informs the logic of the court's decision-making process. Next, I suggest how this context needs to infuse literary/critical debates about the politics of aboriginal/indigenous women's writing. Lastly, I propose a reading of texts by aboriginal/indigenous women writers to offer a different interpretative understanding of the politics of aboriginal/indigenous women's writing and of the representation of their raced and gendered subjectivity. I locate this study within debates about the need for an intersectional analysis of race and gender but with the purpose of exploring one conceptualization of this critical approach from the perspective of aboriginal/indigenous literatures.

Chapter One of my dissertation begins with a court case from the archive of Canadian colonial legal history that I examine as a failed attempt by Jeannette Lavell and Yvonne Bedard to deploy the legal apparatus to secure an alternative vision of Indian community. I suggest that the claims by Lavell and Bedard to normative definitions of Canadian citizenship were foreclosed through the collusion between the National Indian Brotherhood and the Attorney General of Canada, which, together, consolidated a vision of Indian community at the expense of the rights of Native women. I propose that this view of Indian community finds its most stringent critique in Maria Campbell's description of the socio-economic impoverishment of women in *Half-breed*. *Half-breed* was written during a moment of widespread political uncertainty within aboriginal communities, when, in the interplay between the goals of state citizenship and the egalitarian principles of the national community, the constitutional future of Indian nations was thrown into uncertainty by the federal government's decision to revoke the legal foundations of the *Indian Act* and to terminate the constitutional relationship of First Nations communities with the Crown. In responding to this uncertainty, First Nations organizations appropriated a discourse of race premised on the eradication of difference, and in so doing, articulated an interpretation of Indian identity at the political level that depended upon the strategic deployment of gender at the community level. This chapter claims Maria Campbell's *Half-breed* as an important discursive interruption in the dominant historical narrative that disavowed a recognition of the significance of Native women to the construction of Native communities and that atomized individual rights in terms of identity politics. My purposes in this chapter are to demonstrate how Maria Campbell's *Half-breed* illustrates the limitations of a discourse of equal rights that is founded on the erasure of difference, and to suggest through this analysis how the interplay between identity and politics may be more usefully recast in the service of a coalitional vision of aboriginal feminism. I propose that Campbell's focus on the socio-economic disempowerment of Native women provides a foundation for conceiving a subject of aboriginal feminism that is articulated through aboriginal women's identities and relationships.

Chapter Two undertakes a slightly different approach to the question of the intersections between legal texts and literary production. In both chapters one and three, I explore court cases where individuals assert their civil rights by deploying the law on behalf of themselves and their communities. In chapter two, however, the case represents a criminal matter in which a member of the American Indian Movement is accused and found guilty of first-degree murder in the deaths of two Federal Bureau of Investigation officers. The trial of Leonard Peltier and his ensuing incarceration represent the material background against which I read Jeannette Armstrong's novel *Slash*. My purpose in this chapter is to explore the relationship between literature and social justice. Given the devastating conditions of social inequity represented by the Peltier case, my treatment of it as a context for Armstrong's novel risks simplifying the question of social justice as a literary/critical matter. However, my purpose in claiming the story of Peltier's incarceration as a context for Armstrong's novel is to illustrate the difficulties of achieving social and political justice for aboriginal/indigenous peoples given their diverse social and cultural histories, which do not emerge from a consensual space. By exploring debates about Peltier's incarceration and its theorization through Armstrong's text, I suggest that literature, in its examination of human values, provides a means to interrupt and complicate debates about social justice, particularly when its achievement depends upon inherited systems of human laws and conventions that situate social justice for American Indian peoples as uncertain at best. This chapter begins with the trial and appeals processes that Peltier pursued, before turning to an analysis of the violence of representation articulated by his capture and incarceration. I draw from Derrida's discussion of the interrelationships between law and literature as a way to foreground how both are constitutive of social reality. I also attempt to tease out the implications of Derrida's claim that justice needs to be conceptualized as distinct from law and as indicative of deconstructive practice. My analysis of Derrida's work serves as an entry point for my reading of Armstrong's novel and Peltier's memoir. I understand this chapter to serve as a bridge between chapters one and three insofar as my discussion of the rise of the American Indian Movement is part of the same social formation that leads to Indian activism in Canada and that serves as a background to the legal and legislative transformations at White Earth, which I discuss in my final chapter. The three court cases that I explore in this dissertation, then, are interrelated by a cultural movement for aboriginal/indigenous civil rights and social justice, which provides a connecting foundation within each chapter through the discussion of distinct issues.

In chapter three, I explore a court case from the United States in which a member of the White Earth Indian Reservation in Northern Minnesota successfully challenged the seizure and sale of his grandfather's allotment by the State of Minnesota, and thereby touched off a contemporary land claim struggle between Indian residents on the White Earth Indian reservation and the United States government. I argue for a reading of the court case—known as the Zay Zah decision—as a socio–political backdrop against which to read the literary production of Winona LaDuke and Louise Erdrich so as to illustrate how the land claim debate informs these women's literary practices. Through such a reading, this chapter sets out to explore not only the significance of the court's decision as a social narrative that recirculated 19th–century concepts such as "mixed–blood" and "full–blood" identity, but also as a narrative that mediates White Earth claims to social justice through the language of imposed colonial identity categories. In its exploration of the relationship between forms of literary expression and the realm of "high politics," the chapter takes up the following organizing questions: Why do concepts such as "mixed-blood" and "full-blood" identity continue to circulate in cultural discourses, and what is their relationship to "identity politics" as an organizing category for describing the literary interventions of American Indian women writers? How does situating American Indian women writers within the context of colonial history and tribal politics influence the way we read this writing? And finally, what interventionary claims can be made about the literary strategies and techniques that American Indian women writers deploy in their work?

To answer the first question, I provide an overview of the legal and legislative framework within which to situate the "quiet title" decision in the Zay Zah case. I draw on the work of Pierre Bourdieu, David Scott, and Michel Foucault to illustrate how I arrive at a reading of the colonial politics at work in the Zay Zah decision, and I explore the constitutive effects of the *White Earth Land Claim Settlement* (WELSA), a Bill passed by Congress to resolve the land claim dispute at White Earth, contrary to the precedent set by the Zay Zah case, that repudiated the rights of allotment heirs to pursue their individual claims through the courts. This section draws on the scholarship of historians and legal scholars to describe the material consequences of the legislative decision for White Earth residents in the aftermath of the passage of WELSA. In the third section of this chapter, I illustrate how American Indian feminist critics have responded to the absence of women's cultural traditions in discussions of high politics. My discussion here provides a necessary transition between the legislation and the literature so as to illuminate how, in spite of the absence of gender relations before the court, American Indian feminist critics continue to argue for a recognition of women's contribution to the articulation of tribal politics and colonial history. In the final section of the chapter, I explore the literary interventions of Winona LaDuke and Louise Erdrich. I argue that their analyses of gender relations and tribal history in *Last Standing Woman* and *The Antelope Wife* refute the polemical race relations instituted by the courts and federal legislation so as to articulate a vision of tribal politics and indigenous history that recognizes the cultural contributions and social disinheritances endured by indigenous women. The chapter aims not only to recognize how colonial relations between American Indian peoples on the White Earth Reservation and the United States government are mediated through the language of race identity, but also to illuminate how American Indian women writers challenge the disparagement of American Indian peoples' lives through identity politics so as to offer alternative visions of community relations through literary expression.

Endnotes

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[1] One of the challenges of undertaking comparative, transnational work in relation to aboriginal and indigenous peoples is the concern for appropriate terminology when discussing differently constituted cultural, political, and national locations. I recognize that terms such as "Aboriginal," "Indian," "Native," "First Nations," "American Indian," "Indigenous," "Métis," "status," and "non-status" are problematic in view of what Constance Backhouse describes as the "historically impermanent, social construction of the concept of 'race'" (7). This is especially so when exploring a wide range of legal and legislative material. Where possible I have attempted to follow conventional usage in the text discussed. Needless to say, the most important names are those we call ourselves as First Peoples even when they are tied to the impositions of a colonial heritage. I thus use the term "First Peoples" to privilege cultural connections between aboriginal/indigenous peoples of Canada and the United States, which have been disrupted by national boundaries; "aboriginal" as the currently popularized term for referring to First Nations, Métis, and Inuit peoples; and "indigenous" to illustrate the terminology that is accepted in the United States. I was informed recently through my participation at an indigenous feminisms conference that the First Peoples of the U.S. loathe the term "aboriginal."

[2] Helen Hoy articulates the importance of recognizing the implications of anti-essentialist work that foregrounds its relationship to discursively constituted communities while concurrently acknowledging its material effects, when she writes, "Race and gender (among other identity classifications) may well be inventions, constructed categories that signal the deviation of marked races and gender(s) from the norm, but their effects are tangible, producing distinctive racialized or gendered subject positions" (*How Shall I*

Read These? 7).

[3] I am greatly indebted to Stephen Slemon for this astute formulation of my critical project.

[4] For an exception to this general claim, see Chadwick Allen's "Postcolonial Theory and the Discourse of Treaties," *American Quarterly* 52.1 (2000): 58–89. See also Rebecca Tsosie's "Reclaiming Native Stories: An Essay on Cultural Appropriation and Cultural Rights," *Arizona State Law Journal* 34 (2001): 299-358.

[5] The following discussion first appeared as encyclopedia entries on "First Nations & Women" and "Native American Literatures." This material has been revised substantially to fit within the scope of my dissertation. I cite it here because it was formative for my thinking about how to connect seemingly disparate narratives that focused on gender relations but did so without prioritizing how they might be theorized together. The entries first appeared as "First Nations & Women" in the *Routledge Encyclopedia of Feminist Theories*, ed. Lorraine Code, and "Native American Literatures" in the *Encyclopedia of Postcolonial Studies*, ed. John Hawley.

[6] I note here my disagreement with the formulation of feminism and First Nations women's issues offered by Leslie Brown, Cindy Jamieson, and Margaret Kovach, who claim that "the portrait of feminism had a white face" with the consequence that "when minority women were considered . . . their experiences were appropriated by the dominant movement . . . without the incorporation of the race variable" (69). They claim, "First Nations women have been marginalized in feminist theory just as they have been marginalized in feminist organizations" (70). My position in the first chapter of my dissertation argues that the work of disclosing how race and gender identity has

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intersected for aboriginal women historically has not yet been undertaken. In this regard, I agree with their statement that "feminist scholars historically have failed to address how 'race and gender emerge as socially constructed interlocking systems that shape the material conditions, identities, and consciousness of all women'" (70). This does not mean that the connections have not taken place, but rather that we have not yet begun the historical work to recover them. See "Feminism and First Nations: Conflict or Concert?" *Canadian Review of Social Policy* 35 (1995): 68–78.

[7] Robert Berkhofer, Jr.'s analysis of the "Native American" in the "White imagination" remains the preeminent study of the "atemporality of Indian life" in the dominant social imaginary that conceptualized the "total disappearance of Indianness" either "through warfare or through assimilation" (30). Berkhofer notes three trends in the history of White interpretation of Native Americans as Indians: "(1) generalizing from one tribe's society and culture to all Indians, (2) conceiving of Indians in terms of their deficiencies according to White ideals rather than in terms of their own various cultures, and (3) using moral evaluation as description of Indians" (25-26). Berkhofer describes the characteristics that occur in historical accounts of encounters in the "New World" as constituting indigenous peoples either as "good" or "bad" such that the following paradox arises in the social imaginary with regard to the authenticity and identity of indigenous peoples:

> Since Whites primarily understood the Indian as an antithesis to themselves, then civilization and Indianness as they defined them would forever be opposites. Only civilization had history and dynamics in this view, so therefore Indianness must be conceived of as ahistorical and static. If the Indian changed through the

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> adoption of civilization as defined by Whites, then he was no longer truly Indian according to the image, because the Indian was judged by what Whites were not. Change toward what Whites were made him ipso facto less Indian. (29)

The remarkable conceit of this paradox is not one that Berkhofer claims to resonate in contemporary historical accounts of Native American history, yet unquestionably, it continues to reside in scholarship. If, for Berkhofer, the paradox emerges in texts that foreground religious difference, in contemporary scholarship the problem resonates in terms of claims for race/ethnicity.

A further exemplary treatment of the imperialist ideology evident in historical texts about the "new world" written by explorers and missionaries emerges in Tzvetan Todorov's essay "Equality or Inequality" where he claims that "the two great figures of the relation to the other that delimit the other's inevitable space" occur through the interplay between identification and difference where by "difference is corrupted into inequality, equality into identity" which elides an "obvious contradiction" within Christian epistemology: "Christianity is an egalitarian religion; yet in its name, men are reduced to slavery" (146-47).

[8] Chrystos' *Not Vanishing* remains one of the most powerful expressions of the relationship between political consciousness and aesthetic form in its determination to make as "clear & as inescapable as possible, what the actual, material conditions of [American Indian] lives are" (n.p.). Challenging the perception of American Indian peoples as "Vanishing Americans," Chrystos articulates poetry as a form of praxis that requires her audience to know the lives of Native women and by so understanding them to "work for our lives to continue in our own Ways" (n.p.). Joy Harjo's *She Had Some*

Horses also powerfully represents the destitute social circumstances of Native women but does so by foregrounding her recognition of their beauty and strength. By comparison, Wendy Rose's *The Halfbreed Chronicles and Other Poems* adopts a transnational perspective that connects the impoverishment of indigenous women globally to their exploitation through policies of disenfranchisement by the state that specifically target indigenous women.

[9] I provide a more extended analysis of Allen's claim for gender identity as an organizing framework for discussions of indigenous writing in section three of chapter three of my dissertation.

[10] See, for example, Jace Weaver in "Indigenousness and Indigeneity" in *A Companion to Postcolonial Studies*, ed. Henry Schwarz and Sangeeta Ray (Malden: Blackwell Publishers, 2000), 221–235, and Arnold Krupat in "Postcolonialism, Ideology, and Native American Literature" in *The Turn to the Native* (Lincoln and London: U of Nebraska P, 1996), 30–55.

[11] I am greatly indebted to Daphne Read for bringing Joan Scott's important work to my attention.

Chapter One

Stories Matter: The Reinstatement Claims of Jeannette Lavell and Yvonne Bedard and Maria Campbell's *Half-breed*

> [R]ealism locates its language within the
> postcolonial condition . . . lived experience does not
> achieve its articulation through autobiography, but
> through that other third–person narrative known as
> the law.
>
> Sara Suleri (766)

The central claim of this document is that law and literature can be read productively together in order to establish a context for interpreting cultural texts by aboriginal/indigenous women writers against specific socio/political contexts. This chapter attempts to ground this claim by exploring a court case in Canada in 1973, in which the judiciary sought to regulate aboriginal women's subjectivities following the demands by Jeannette Lavell and Yvonne Bedard, two disenfranchised women, for reinstatement into their reserve communities. The ensuing debate about the place of disenfranchised women[1] on the reserves and in the wider social community foregrounded issues of race and gender identity by establishing an opposition of "race versus gender" identification for aboriginal women. I suggest that the context for this debate, represented by legal texts, informs and complicates literary/critical readings of Maria Campbell's life story in *Half-breed*, a story that critics have interpreted by constructing Campbell as an agent in her own self-transformation. The court case illuminates the gender politics of the federal government and of the National Indian Brotherhood (now the Assembly of First

Nations), and serves as a forerunner to changes instituted by Bill C–31 (1985), and as a precursor to amendments enacted by the Bill to *Indian Act* legislation, thus exposing the colonial history that underlies this legislation. I propose that the historical context represented by this case complicates transparent claims to agency for aboriginal women in order to argue for an understanding of aboriginal feminist practice that constitutes its political subject through the recognition of aboriginal women's needs, a practice suggested by the politics of affiliation asserted through Campbell's life story.

The Cases for Lavell and Bedard

In the winter of 1973, Jeannette Lavell and Yvonne Bedard captured the interest of aboriginal communities across Canada when their challenge to the membership provisions in *Indian Act* legislation appeared before the Supreme Court. Lavell, who was born Jeannette Vivian Corbiere of Indian parents at the Wikwemikong Reserve on Manitoulin Island, appealed the removal of her name from the Wikwemikong band list following her marriage to David Mills Lavell, a man who was neither Indian nor a member of an already existing Indian band (Re Lavell and Attorney–General of Canada [1972] at 391). Her appeal first appeared in the York Judicial District County Court, where her lawyer argued that the removal of her name from the band list constituted discrimination against her on the basis of sex, since, under the terms of the band membership provisions in section 12(1)(b) of the *Indian Act*,[2] Lavell lost her status as an Indian woman as a result of her marriage to a "non–Indian man," while band membership provisions for Indian men did not impose the same penalty for Indian men who married non–Indian women.[3] Counsel for Lavell claimed that s.12 (1)(b) of the *Indian Act* deprived Lavell of "equality before the law" (390), and thus, according to the *Canadian*

Bill of Rights, was "rendered inoperative" by virtue of its violation of the equality provisions[4] stipulated under part 2 of the Bill. Lavell, her lawyer contended, should therefore be reinstated as a member of the Wikwemikong Band in light of the discriminatory provisions enacted by *Indian Act* legislation (393).

Judge Grossberg, hearing the case on behalf of the state, disagreed. He stated that because Lavell "entered into a voluntary marriage," her "status" as a married woman "imposed on her the same obligations [that it] imposed on all other Canadian married females," and thus Lavell, through marriage, enjoyed "the same rights and privileges as all other Canadian married [women]" (394). Given her preferential status as a married woman, Judge Grossberg contended, Lavell was not "deprived of any human rights or freedoms contemplated by the *Canadian Bill of Rights*," and accordingly, could not claim to have been denied "equality before the law" (394, 393). He dismissed the appeal by Lavell and upheld the decision by the Registrar of the Department of Citizenship and Immigration to delete Lavell's name from the Wikwemikong band list. In concluding his remarks, he noted that "[i]f s. 12(1)(b) is distasteful or undesirable to Indians, they themselves can arouse public conscience, and thereby stimulate Parliament by legislative amendment to correct any unfairness or unjustice . . . [In his opinion] s.12(1)(b) of the *Indian Act* is not rendered inoperative under the *Canadian Bill of Rights*" (395, 396).[5] As a consequence of the court's resolve to uphold the termination of her band membership, Lavell appealed Judge Grossberg's decision to the Federal Court of Canada. The appellate court disagreed with the previous court ruling and voted unanimously in Lavell's favour to "set aside the decision of Judge Grossberg" and to "refer the matter back to him to be disposed of on the basis that the provisions of the *Indian Act* are inoperative to deprive the applicant of her right to registration as a member of the Wikwemikong Band of Indians" (Re Lavell and Attorney–General of Canada [1971] at 241).

Yvonne Bedard was born of full–blooded Indian parents on the Six Nations Reserve in the County of Brant. She married a man of non–Indian heritage and lived with him and their two children off–reserve for a number of years. When she returned to the reserve following her separation from her husband, the Council of Six Nations notified her that subsequent to her fourteen–month residency she was expected to dispose of the property bequeathed to her in the will of her mother, and quit her occupancy of the house, and the Six Nations Indian Reserve (Bedard v. Isaac et al. at 393). Bedard's case appeared before the Ontario High Court of Justice where her lawyer argued that the request to quit the Six Nations reserve and the removal of Bedard's name from the Band Register constituted "actions that discriminate against her by reason of her race and her sex," since the denial of her right to occupy band property emerged as a function of the removal of her status as an Indian woman "because of her marriage to a non–Indian man" (394). Bedard's lawyer contended that under the provisions of section 1(a) of the *Canadian Bill of Rights*, Bedard had been denied her "right to the 'enjoyment of property, and the right not to be deprived thereof except by due process of law'" (394). Her lawyer filed an injunction to restrain the Council of Six Nations from expelling Bedard and her two infant children from the reserve, and sought a ruling on the prevailing interpretation of race and sex distinctions in *Indian Act* legislation (391).

The Bedard case and the case for Lavell became linked after Judge Osler in the Supreme Court of Ontario invoked as legal precedent the decision by the Appeal Division of the Federal Court to reinstate Jeannette Lavell as a member of the Wikwemikong Band. Following the reasoning established by the appellate court, Judge Osler, in the Bedard decision, stated that not only did the *Indian Act* "discriminate by reason of sex with respect to the rights of an individual to the enjoyment of property" (Re Lavell and Attorney–General of Canada [1972] at 394), but it also, he claimed, produced "a different result with respect to the rights of an Indian woman who marries a person other than an Indian" than it did for "a male Indian [who] marries a person other than an Indian, or an Indian who is a member of another band" (396). Setting aside the "larger question" of "whether virtually the entire *Indian Act* . . . may be said to be a valid exercise of the powers of Parliament and may remain in force despite the *Canadian Bill of Rights*" (396), Judge Osler declared section 12(1)(b) of the *Indian Act* inoperative under the *Canadian Bill of Rights* and invalidated "all acts of the Band [Council] and of the District Supervisor" in revoking Bedard's status and rescinding her right to occupy property on the reserve (397). Bedard was granted an injunction to restrain the Council of Six Nations from expelling her from her home, and an order was passed overturning the resolution by the Band Council that Bedard dispose of her property (397).

The reinstatements of Lavell and Bedard to band membership and the Supreme Court of Ontario's recognition of Bedard's right to occupy property on the reserve did not go uncontested. In January 1973, both women appeared before the Supreme Court of Canada as respondents in an appeal launched by the Attorney General of Canada in Lavell's case and representatives from the Council of Six Nations in Bedard's. The Supreme Court allowed the reasoning established by the High Court of Justice in the Bedard decision and considered both cases together (A.G. of Can. v. Lavell—Isaac v.

Bedard [1974] at 1352). Intervenant status was granted to several organizations and individuals who, because of their political dispositions with regard to *Indian Act* legislation, appeared before the court either as intervenants on behalf of the reinstatements of Lavell and Bedard or in opposition to them. Support for the women's claims thus coalesced in terms of opposition to the discriminatory provisions of *Indian Act* legislation and emerged as challenges to its validity from three associations. The Native Council of Canada,[6] a national organization established on behalf of Métis and Non–Status Indians, argued that "Native rights . . . should be derived from one's racial and cultural organizations rather than from the discriminatory provisions of the *Indian Act*" (para. 10). The Alberta Committee of Indian Rights for Indian Women Incorporated,[7] an advocacy group representing several women's clubs and individuals, contended that "[i]f the *Indian Act* is for the protection of Indians as is alleged, then that protection . . . should be afforded equally to both sexes" (para. 5). And the Anishnawbekwek of Ontario Incorporated[8] claimed that "those sections of the *Indian Act* which were applied by the Registrar to effect the deletion of the name of the respondent from the Band List solely because of her marriage to a non–Indian, create [a series of] inequalities . . . based upon classifications of race . . . [and] . . . sex . . . 'to which federal legislation must respond'" (para. 8, 9).[9]

Opposition to the reinstatements of Lavell and Bedard, in contrast, privileged the membership provisions engendered by *Indian Act* legislation yet articulated these regulations as recognition of the "special status" that protected the "customs of the Indian" and the practices of Indian communities (Factum of the Treaty Voice of Alberta Association at para. 2A, 2B). Support for *Indian Act* legislation thus issued from the

Treaty Voice of Alberta Association, which claimed that "the customs of the Indian people are exactly the provisions set out in the *Indian Act*" (2A); from national and provincial Indian organizations,[10] which stated that they disagreed with the "present status system in the *Indian Act*," but nevertheless supported the proposal by the Attorney General of Canada[11] that "any such revision [to Indian Act legislation] is properly the task of Parliament" (Factum of the Indian Organizations at para. 20); and from the Council of Six Nations which, in addition to asserting their legal standing as the "duly constituted governing body of the Six Nations Band and Reserve pursuant to the provisions of the *Indian Act*, R.S.C. (1970)" (Factum of the Appellants at para. 5), also stated that "[t]he provisions of the *Indian Act*, R.S.C. (1970) c. I–6 and particularly Sections 12 (1)(b) . . . are paramount and must prevail in the event that such provisions are held to be inconsistent with the provisions of the *Canadian Bill of Rights*" (23iv).

The court's authorization of intervenant status to several political organizations[12] that advanced conflicting interpretations of Lavell's and Bedard's claims to race and sex discrimination under the terms of the membership provisions in *Indian Act* legislation, and the realignment of these positions as debates about the constitutional validity of *Indian Act* policy with regard to the *Canadian Bill of Rights* created a dilemma for the Supreme Court of Canada. To uphold the women's claims to *Indian Act* identity, the court had to acknowledge the problem of racial discrimination in *British North America Act* legislation. To deny the women's claims to *Indian Act* identity, the court had to recognize the sexual discrimination provisions in *Indian Act* legislation. In a paradigmatic move that disavowed the sexism of official state policy and sustained the race politics of *Indian Act* legislation, the Supreme Court upheld the appeals by the Attorney General of

Canada, the national and provincial Indian organizations of Canada, and the Council of Six Nations. Jeannette Lavell and Yvonne Bedard lost their status as Indian women and were forced to leave their reserve communities.[13]

The case of the Attorney General of Canada v. Lavell and Richard Isaac et al. v. Bedard has been interpreted as a judicial decision that reformulated Lavell's and Bedard's equity claims from an assertion of race and sex discrimination to an opposition between "Indian rights v. women's rights,"[14] yet I wish to consider it here for its representation of what Kimberle Crenshaw describes as a "single–axis framework" of analysis that "marginalizes those who are multiply–burdened and obscures claims that cannot be understood as resulting from discrete sources of discrimination" (140). This process of exclusion occurs, Crenshaw argues, because of the outcome–based approach of feminist theory and antiracist policy that implicitly privileges the normative identities of "whiteness" and "maleness" (150). According to Crenshaw, feminist theory and anti-racist policy disavows the multidimensional experiences of Black women through its assumption that such claims to discrimination "must be unidirectional," and assimilates Black women's experiences to a common category through a "top–down strategy" that "use[s] a singular 'but for' analysis to ascertain the effects of race or sex [discrimination]" (150–151). Crenshaw states that the effect of these organizing strategies is that they limit "the scope of antidiscrimination law" to the following proposition: "'but for' their race or 'but for' their gender [Black women] are not invited through the [entrance] but told to wait in the unprotected margin until they can be absorbed into the broader, protected categories of race and sex" (152). Crenshaw's analysis of the redeployment of antidiscrimination policy to the "experiences of otherwise-privileged members of the group" (140) illuminates the strategy of incorporation demonstrated by the Supreme Court in its adjudication of Lavell's and Bedard's claims to race and sex discrimination. For it explains how the court could, by reconfiguring the women's allegations of race and sex discriminations as singular issues pertaining to their "equality of treatment in the enforcement and application of the laws of Canada,"[15] disavow a recognition of the compound nature of the women's claims. In so doing, the court reinscribed their experiences of discrimination as a problem of equality versus sexual difference, since to conclude that Lavell and Bedard had been subject to "'equality before the law' [as it] exist[ed] in Canada at th[e] time" of the enactment of the *Bill of Rights* (1365), the court had to deny their gender difference from Indian men under *Indian Act* legislation, and to assert their race sameness with historically disenfranchised Indian women in order to declare that disinherited Indian women were given equal treatment "in the enforcement and application of the laws of Canada" (1373). The court's analysis of the women's case thus reproduced a tautological framework that repudiated the women's connections with Indian men in order to assert their identities as non–Indian women.

Aboriginal Women and the Problem of Intersectionality

The failed attempts by Lavell and Bedard to appropriate the judicial system to secure legal recognition of their status as First Nations women and their subsequent disempowerment for legally contesting band membership provisions so as to retain the right to live as legitimate members within their Native communities illustrate the need for an analysis of the intersections between race and gender determinations in social and legal discourse that can explain how indigenous women are positioned at the intersection of race and gender discourses within the nation–state. This analysis of the "intersectionality" (Crenshaw 140) of indigenous women's experiences would bring into visibility an understanding of aboriginal women's socio–cultural status as raced subjects, together with a conceptualization of colonial state power, to illuminate the process through which state policies authorize and perpetuate identity politics within Native communities at the same time as they abrogate aboriginal women's socio–cultural empowerment through legal, legislative, and political means. Such an analysis discerns the doubling process of subject-constitution engendered by state legislation, such as the *Indian Act*. On the one hand, this legislation attributes the idea of *autonomy* to aboriginal women in their claims for equal treatment with Indian men in order to disavow the historical dimension of their gendered experiences. On the other, it privileges an undifferentiated interpretation of aboriginal identity in legislative policies, such as the *British North America Act*, to secure a homogeneous vision of aboriginal communities by denying the gender differences of aboriginal women's raced subjectivities. Kimberle Crenshaw's notion of "intersectional experience" as a form of analysis that "is greater than the sum of racism and sexism" (140) provides one approach to this problematic, for it enables an understanding of how "crosscutting forces establish gender norms and how the conditions of [race] subordination wholly frustrate access to these norms" (156). In what follows, I undertake a form of race and gender intersectional analysis, focusing on the devaluing of aboriginal women's identities by the state. Rather than affirm Crenshaw's proposal that gender is subordinated to race in affirmative action analyses of racism (161), I wish to ask instead if "the paradigmatic political and theoretical dilemma created by the intersection of race and gender" that Crenshaw explores represents an "impossible choice" (Scott "The Sears Case" 172) in the assessment of race and gender intersectionality for aboriginal women. That is to say, to what extent are aboriginal women unwilling to conceive of political community for aboriginal women at the expense of aboriginal men? I draw here on Joan Scott's recognition that "equality–versus–difference" presents an "oppositional pairing" that "misrepresents the relationship of both terms" and produces a "double effect": "it denies the way in which difference has long figured in political notions of equality, and it suggests that sameness is the only ground on which equality can be claimed" (174). This pairing, according to Scott, represents "an impossible choice" for feminist critics, since it implicitly claims that because "women cannot be identical to men in all respects, they cannot expect to be equal to them" (174). I would contend that such an alignment of interests occurred during a climate of political and cultural uncertainty for aboriginal communities during the formation of National Indian political associations in the late 1960s and early 1970s. In that historical moment, in the interplay between the goals of state citizenship and the formulation of egalitarian principles by the state, the constitutional future of Indian communities was thrown into uncertainty by the federal government's decision to revoke the constitutional basis of the *Indian Act* and to terminate the relationship between First Nations communities and the Crown. The subsequent formulation of aboriginal rights as requiring a choice between *equality versus sexual difference* envisaged Indian identity at the political level, which depended upon the strategic deployment of gender identity at the community level. I argue that the social and political context of debates about the *1969 Statement of the Government of Canada on Indian Policy* ("White Paper") and the subsequent disenfranchisement of Lavell and Bedard is an important condition of production against which to read Maria Campbell's life story *Half–breed*. *Half–breed* was written during this time of political transformation within Indian communities when questions about the value of identity politics and equal rights, and their relationship to competing interpretations of aboriginal identity were widely debated. I suggest not only that this context represents an important material backdrop against which to read Campbell's life story, but also that Campbell's narrative represents a significant discursive interruption in a historical narrative that disavowed a recognition of the importance of aboriginal women to the construction of Native communities and that atomized the questions of individual rights in terms of identity politics. Read as an intervention in social debates, Campbell's life story illuminates her political engagement with a discourse of equal rights that is founded on the erasure of difference. My purposes in reading Campbell's narrative for its engagement with dominant political narratives of aboriginal identity are twofold: first, I illustrate how this life story portrays the limitations of a discourse of equal rights that is founded on the erasure of difference; and second, I demonstrate how the interplay between identity and politics is recast by Campbell's narrative in the service of a coalitional vision of aboriginal women's identity. Ultimately, I argue that Campbell's life writing, in its assertion of identifications with other disenfranchised members of society, urges feminist critics to conceptualize aboriginal women's political and social identity through an invigorated notion of *relationships* and *needs* rather than solely through a discourse of equal rights.[16]

I am also concerned here to intervene in the critical scholarship on Maria Campbell's *Half-breed* by illustrating how the conditions of production for the text complicate an understanding of its interventionary politics. In the emerging canon of criticism on Native literatures, *Half-breed* has been recognized as a ground–breaking text by both First Nations and feminist literary critics. First Nations critics have claimed the narrative as a political intervention for the way the text articulates the race and gender identities that inhere in Native communities. Kateri Damm, for example, privileges its "truth-telling qualities" and polemical style, which she argues, "presents a more honest or 'true' depiction of 'what it is like to be a halfbreed woman in our country'" (Damm 98). My concern with this approach to the political implications of the text is that it does not take into account how Native identity is embedded in discourse as a signifying system in which ideological positions are simultaneously inscribed and disavowed (de Lauretis 12). *Half-breed* is read for its ideological transparency in which the representation of race and gender subjectivity is rendered visible without the benefit of a politically–informed critical apparatus. This approach relies on an assertion of the autonomy of Campbell's text without allowing us as readers to situate it in terms of historical location.

In a similar manner, feminist literary critics such as Gretchen M. Bataille and Kathleen Mullen Sands, whose critical practice is concerned to recuperate American Indian women's autobiography for its expression of "a fully detailed account of life experiences centering on the personal growth of the individual, incorporating family histories and tribal context" (23–24), claim *Half-breed* as a "confessional and personal account" through which Maria Campbell not only "f[inds] her niche in the politics of her people" but also "survive[s] the personal struggle" so that "she is ready to work to make life better for all her people" (125). This reading of Campbell's life writing also appears problematic because it advocates an interpretation of Native subjectivity and women's identity that privileges the rugged individual as an agent in her own transformation and that valorizes the idea of victimization as an enabling condition in society.[17] Such a analysis participates in disavowing the material conditions that existed at the time when Campbell wrote her story, conditions that emerged before the courts to complicate any transparent conceptualization of agency for aboriginal women, as I have been attempting to illustrate through my analysis of the gender politics at work in the race and sex discrimination claims of Lavell and Bedard. Moreover, such a reading fails to account for the overwhelming sense of cultural, social, and political disempowerment that Campbell asserts when she describes the material conditions that prompted her to write her life story. In an interview with Doris Hillis, she states:

> I didn't sit down to write an autobiography. I didn't sit down to write a book. I didn't think I was a writer. When I wrote *Halfbreed*, a few months before, I had been on a job that had meant a great deal to me, and I was fired because I was accused of being Communist . . . I was starting to have a political awakening . . . I was very vocal. I was the only woman in the organization, within the executive, and during that time, women—especially Native women—didn't speak out like that. So I was fired from my job. . . . For the first few months after I was fired, I didn't have a job and my money ran out. The only job that I could go back and do was wait tables, which paid $2.50 an hour, or something. I had a friend who . . . told me . . . 'If things get so bad, and you've got nobody to talk to, write yourself a letter.' And so *Halfbreed* came . . . . (44–45)

Writing, for Campbell, thus enables the recognition of how her subjectivity is materially engendered and socially determined by the economic and political possibilities that delimited opportunities for aboriginal women. Her life story, I would suggest, is more comprehensively understood as foregrounding the material relations that constrained aboriginal women's subjectivities and for exploring how the formation of race and gender subjectivity for aboriginal women intersected with the formation of political and national identities that were emergent at this time.

To argue for the need to reconsider Native literatures in the context of their historical and material realities is to begin the important work of examining the ethnocentric assumptions that predominate in colonial relations and that appear as normative in literary/critical discourse. One of the conventions of criticism on Native literature is a tendency to represent the concerns of Native writers as preoccupied with a choice to either "assimilate or vanish" (Fee 169). This convention serves a double purpose in literary criticism: it recentres the hegemony of the dominant culture as an inescapable theme of Native writers, and it disavows the recognition of Native writers' attempts to construct cross–cultural affiliations so as to articulate their place in history and to assert a form of social resistance. As a "normalizing discourse" perpetuated by the dominant ideology "whose work," according to Mary Louis Pratt, "is to codify difference, to fix the Other in a timeless present where all 'his' actions and reactions are repetitions of 'his' normal habits" (139), such criticism participates in disavowing a recognition of the complicated material histories and cultural locations that aboriginal/indigenous peoples occupy as subjects within the nation–state and as colonial objects of legislative processes. Following from the interventions of postcolonial feminist critics such as Chandra Mohanty, who argues that feminist critics need to be vigilant so as to "uncover how 'ethnocentric universalism' is produced in certain analyses" (55), I would suggest that a politically–committed critical practice needs to attend to the ways in which it can simultaneously occlude and diffuse the oppositional politics of a text by taking for granted the interventionary politics of its own approach.

Yet, the question of how to conceive of the agency of the subject as it is simultaneously constructed within and limited by the discursive narratives of political and social discourse and the project of producing counter narratives in the service of an emancipatory politics remains a difficult task. This project is troubled further by a tendency within Native literature for aboriginal critics to construct the field in terms of its "absolute difference" from other literary practices. For example, Lee Maracle in "Oratory: Coming to Theory" argues that the theoretical language of Western discourse displays and perpetuates the colonizing impulses of Western culture, for in order to gain the right to "theorize," Native peoples must "attend their institutions for many years, learn [to use] this other language, and unlearn our feeling for the human condition" (10). Maracle argues against the appropriation of literary critical language to a reading of Native literature and proposes instead that Native literature be understood as a storytelling practice in a culture–specific Native context (3). Thomas King in "Godzilla vs. Postcolonial" suggests a similar impasse in the relationship between postcolonial theory and native literatures when he argues for the cultural autonomy of Native texts (12). While it is important to recognize both Maracle's and King's points about the developmental logic within the field of postcolonial literature that re–orients texts around a single binary opposition of the colonizer versus the colonized, it is equally imperative, I would argue, to resist representing the field of Native literatures in terms of its absolute difference. If it is the case that Native literature is completely separate from an imbrication with other cultural narratives of a shared past and conflicted present, then the question arises as to why literary critics within the dominant culture should attend to the issues that Native writers address. Why read Native literature and why argue for its importance as a field of cultural production? To phrase this question somewhat differently in the terms set out in Satya P. Mohanty's cogently argued essay, "Us and Them: On the Philosophical Bases of Political Criticism," "If the relativist says that everything is entirely context–specific, claiming that we cannot adjudicate among contexts or texts on the basis of larger, evaluative or interpretative criteria, then why should I bother to take seriously that very relativist claim?" (128). A partial response to this problematic in the field of Native literatures is to argue that the literature needs to be understood within the context of its material histories with an eye to critiquing the ethnocentric assumptions and strategies of appropriation at work in dominant critical practices. One approach to this problem might be to begin by formulating a critical reading practice that can attend to the imbrication of identity politics with political and legislative discourse. Such an approach has been suggested in the work of David Scott, who argues for a postcolonial project that includes "rethinking the idea of the subject in relation to social and political identity" and "reproblematiz[ing]" the "normative concepts of citizenship and community" (153) that are articulated for us by the modern nation–state.

Governmentality and Aboriginal Politics

In "The Aftermaths of Political Sovereignty," David Scott locates a problem for contemporary colonized subjects who seek to advance their claims to "citizen–subject" identity by appropriating "seemingly attractive positions" (149) that appear to offer "a normative vocabulary [for expressing their] social and political hopes" (134). For Scott, this vocabulary represents not the expression of our political will but rather the recontainment of our "rational autonomous agency" (152). In Scott's view, the dilemma posed by this normative vocabulary reflects the defining feature of our postcolonial present in which "resurgent liberalism" abounds and remains without an adequate challenge to its philosophical agenda (145). The lack of a political alternative to the liberal nation–state, according to Scott, produces a dilemma for colonial subjects who seek "through the democratic revolution" a "wider field of choice" that "carries with it the new possibility of freedom and agency" (152). For Scott, however, the appropriation by colonial subjects of normative concepts to produce a representation of the subject "as the source of 'free will' and rational autonomous agency" (153) carries with it an ideological problem. The dilemma, for Scott, occurs in the following way, and he writes:

> [M]odern power and its political embodiment liberal democracy constitute a regime in which power is inscribed within a *new* field of functionality (that of the social), in relation to a *new* target (the government of conduct), and in relation to new guiding or normative concepts (among them, freedom, procedural justice, legal equality, representative government, and public opinion) . . . one has then to read the inscription of the modern into colonial space not as the emergence of an 'empty space' or of an 'indeterminate' power but as a governmental *reorganization* of the existing institutional and political space such that by a certain number of transforming arrangements and calculations the conduct of the colonized is constrained or urged in an *improving* direction. (152–153)

The system of governmentality that Scott describes, in which colonial subjects are "urged" in an improving manner that reinscribes their political claims within a "new field of functionality" so as to contain their political platforms within a terrain that has been arranged for them on behalf of the modern nation–state, represents precisely the form of government representation extended to national and provincial Indian associations during the controversy in Indian communities over the White Paper debate. The National Indian Brotherhood's response to the White Paper exemplifies a moment of the reproduction of a structure of identification in the service of colonial state power that Scott describes. The *1969 Statement of the Government of Canada on Indian Policy*, or the "White Paper" as it became more generally known, has been regarded by some historians as a minor occurrence in the political landscape of Canada. Yet, its importance as an impetus for political organizing within Native communities cannot be overestimated. Drafted as a response to the growing frustration by Native communities with a system of racial discrimination that restricted their rights as citizens and that contributed to their socio-economic disempowerment in society, the Federal Government's White Paper proposed to end racial discrimination against First Nations peoples by removing their special status with the Crown and by terminating the *Indian Act* (Weaver 132). As Sally Weaver explains, in *Making Canadian Indian Policy: The Hidden Agenda*, "the white paper described the Indian as a person 'set apart' in law, in government administration, and in society generally. These undesirable conditions were attributed to 'the product of history' [which it argued] had nothing to do with [Indians'] abilities and capacities [...] [but rather] with their colonial status as a distinct society" (166). In place of recognition of the historic relationship between First Nations peoples and the Crown, the White Paper contained a model of citizenship premised on the eradication of difference. It stated: "This Government believes in equality. It believes that all men and women have equal rights. It is determined that all shall be fairly treated and that no one shall be shut out of Canadian life, and especially that no one shall be shut out because of his race" (*Statement* 6). The White Paper conceived of the problem of citizenship as an issue that conflated structural racism with the problem of race and that proposed the idea of a political future for First Nations peoples that depended on the elimination of the social and cultural distinctiveness of First Nations communities. It forged a vision of Native identity that disavowed recognition of history and that depended upon the construction of permissible interpretations of race identity under its legislation.

First Nations communities recognized in the withdrawal of the *Indian Act* the removal of the legislative basis for their distinct status. In rallying to oppose the federal government's proposal, however, they reproduced a structure of identification that consolidated native identity in terms of the legalized representation of race. For under the terms of *Indian Act* legislation, only status Indians had the right "to be and remain an Indian" (Indian and Northern Affairs 1). Other aboriginal peoples with historic rights to national recognition and who identified as Métis, non–treaty, or enfranchised remained unrepresented. The response of the National Indian Brotherhood in their proposal *Citizens Plus* constructed Native identity according to the terms imposed by the federal government, and thus appropriated a system of identification that disavowed the social complexities and historical inheritances of Indian identity. For this reason, when the question of racial discrimination surfaced as a juridical problem in the courts, the National Indian Brotherhood could only rely on their recognition of the *Indian Act* as representative identity in order to repress the threat of the atomization of its provisions within the courts. In spite of their acknowledgment that the *Indian Act* discriminated against women, they refused to support the reinstatement claims of First Nations women and thus foreclosed the possibility of reconfiguring the legislated paradigm of Native identity and community.[18] It is the widespread social uncertainty that followed from the Lavell/Bedard case and the rearticulation of the women's claims as a struggle between "Indian rights versus women's rights" that impels the publication of Maria Campell's *Half-breed.*

Reconceiving Rights: Maria Campbell's *Half–breed*

In *Half-breed,* Campbell disrupts the dominant narrative that the "only good Indian" (Cardinal 1) is a status Indian with a vision of aboriginal history and identity that is predicated on the recognition of difference. Her story populates the landscape of the Canadian nation with a narrative based on the strategy of lived historical memory and subjectivity that interrupts what Homi Bhabha calls the "transparent linear equivalence of event and idea" (Bhabha 292-93). Working through historical memory to restore an ideal of community, Campbell writes the story of the Halfbreed people into the landscape of the Canadian nation. She states, "My people fled to Spring River which is fifty miles north-west of Prince Albert. Halfbreed families with names like Chartrand, Isbister, Campbell, Arcand, and Vandal" (7). At the centre of this narrative event is the recognition of the place of women:

> Great Grandma Campbell, whom I always called 'Cheechum,' was a niece of Gabriel Dumont . . . She often told me stories of the Rebellion and of the Halfbreed people . . .Grannie Campbell was a small woman with black curly hair and blue eyes. She was a Vandal, and her family had also been involved in the Rebellion . . . Grandma Dubuque was a treaty Indian woman, different from

> Grannie Campbell because she was raised in a convent . . . My Mom was very beautiful, tiny, blue-eyed and auburn haired . . . I was born in early spring . . . Maria. (11-15)

Campbell's narrative of her family history challenges the rationalized narrative of the modern nation that permits only one representation of identity by asserting the place of the personal and communal as a site for the recognition of the lives and relationships of women. Yet, she cannot undo the colonial encounter that produces the differences of aboriginal subjectivity. Grandma Dubuque remains a treaty Indian, Grandma Campbell a member of the Halfbreed people. Rather than dismiss these identities as rhetorical difference, however, Campbell asserts that the material production of aboriginal identity depends upon a moment of colonial dispossession in history. She writes:

> In the 1860's Saskatchewan was part of what was then called the Northwest Territories and was a land of free towns, barbed-wire fences and farmhouses. The Halfbreeds came here from Ontario and Manitoba to escape the prejudice and hate that comes with the opening of a new land . . . [F]ear of the Halfbreeds . . . along with the prejudice of white Protestant settlers, led to the Red River Rebellion" (3).

Unlike the strategy of the National Indian Brotherhood whose claim to Indian identity relied on an affirmation of a racist colonial structure, Campbell's narrative illustrates how the act of colonization disrupts aboriginal identity to displace an ideal of community with an imposed structure of naming and difference. Indeed, Campbell's description points to the systematic forms of racism in ongoing settlement and *Indian Act* legislation that lead to the dispossession of Halfbreed people from their property in Red River and to their relocation along the Road Allowances. The resulting loss of cultural cohesion and personal dignity that Campbell describes resonates tellingly with the structure of sexual discrimination and colonial legislation that the National Indian Brotherhood enacts when they opt to dispossess Lavell and Bedard of their status as Native women.

The resonances between Campbell's narrative and the court record emerge even more forcefully when she attempts to theorize the relationship between the atomization of identity and its production of a discourse of rights. During a childhood encounter with a game warden, an encounter that the narrative seems at pains to recuperate as a funny childhood story,[19] Campbell relates how betraying her father to the game warden for a candy bar resulted in severe poverty and starvation for her family during his imprisonment. The author illustrates how an imagined notion of the ideal community, whose rights must be protected from the undisciplined rights of the subordinated individual, gets embodied in an objectified notion of social justice. She writes:

> The Law will do many things to see that justice is done. Your property, your family, the circumstances, none of it matters. The important thing is that a man broke a law. He has a choice, and shouldn't break that law again. Instead, he can go on relief and become a living shell. (61)

By foregrounding the normative expectation of an individual's legal rights—that a person has a choice about whether or not to "break the law"—Campbell articulates her recognition that the project of a rights-based discourse goes forward at the expense of the socio-economic disempowerment of society's subordinated individual.[20] As Joel Bakan argues in *Just Words: Constitutional Rights and Social Wrongs*:

> rights are not just inert tools that can be used by social movements to advance their causes through litigation; rather, they actively structure the very nature of

> political struggle. Moreover, rights discourse is an important and unique political language because of its universal form and presumptive validity in liberal-democratic societies. (118)

In a cultural climate in which a discourse of individual rights predominated (Trudeau 358), Campbell's narrative articulates the dangers of subordinate communities appropriating a discourse of rights to community ends in a colonial society. Her critique emerges most persuasively in her description of the failure of Native leaders to consolidate a Community Development project that would incorporate "Indian reserves and Métis colonies" so as to speak to "government with one voice" (182). Recalling the plan's failure, Campbell notes her anger with the strategic use of community interests to retain individual privilege. She writes, "The proposal for a federation was rejected by Treaty Indians. They felt that the militant stand would jeopardize their Treaty rights. 'The Halfbreeds,' they said, 'have nothing to lose, so they can afford to be militant'" (182).

Perhaps the most compelling moment in which Campbell's narrative resonates with the court record occurs when she describes her recognition that the research project she has undertaken on behalf of the provincial government divides her from the Saddle Lake Indian community and destroys her friendship with Marie Smallface (180). The sense of betrayal and self-reproach that Campbell experiences propels her to the recognition of her complicity with the racist structure of representation put forward by the provincial government. In a final critique of the idea that individual rights occur at the expense of community rights, Campbell articulates a future-oriented vision of community when she says, "I believe that one day, very soon, people will set aside their differences and come together as one. Then together we will fight our common enemies. Change will come because this time we won't give up. There is growing evidence of that today" (184).

I have been arguing that one of the most interesting features of Campbell's text is her critique of the representation of the atomization of community rights as individual rights. Campbell's story, however, is also concerned to articulate how social and political discourses intersect to facilitate her disempowerment along the axes of race and gender identity. For Campbell, this relation emerges through a recognition of the Métis community as located at the intersection of a material and social organization of space that prohibits its economic empowerment. In Campbell's narrative, the Métis represent neither members of the white settler population with access to land as homesteaders (12) nor are they "Treaty Indians" with land available in reserve allotments (26). Instead, the Métis occupy the border zone of land that parallels the road lines, thus earning them the name the "Road Allowance people" (16). The recognition of this geo–political space allows Campbell not only to locate the Métis community within a historical narrative of economic exploitation, but also to illuminate how the multiple intersections of race and gender produce the indeterminacy of the border zone that enables an articulation an oppositional political consciousness.

My claim for the oppositional politics of Campbell's text is not one that I wish to ascribe in an uncomplicated manner to her individual agency as a writing subject. Rather, I understand Campbell's text to be participating in a broader political project of writing back to the national narrative by appropriating a standpoint perspective that articulates Métis history and identity from an invested position that begins with a conceptualization of the "people." Second wave feminist critics have theorized the standpoint for this perspective as "a feminist politics of location" (Rich 210). This critical approach emerged out of debates in feminist theory between subjective notions of identity formation that privileged experience as the basis for knowledge production (Mohanty 74) and theoretical approaches to feminist practice that demanded a feminist epistemology as a site for grounding feminist critique (Felski 38). These tensions have important consequences for analyzing Native women's discursive practices. As Emma LaRocque has noted, "Native scholars, particularly those of us who are decolonized and/or feminist, have been accused of 'speaking in our own voices,' which is taken as 'being biased' or doing something less than 'substantive' or 'pure' research" (LaRocque 12).[21] To avoid the reductionism of arguing that Native women have unmediated access to their subjective reality and to retain a critical approach that provides a foundation for feminist analysis in recognizing how Native women writers critique the material and social systems of inequality, I read Campbell's narrative of gender identity for its production of

> a multiple, shifting, and often self-contradictory identity, a subject that is not divided in, but rather at odds with, language; an identity made up of heterogeneous and heteronomous representations of gender, race, and class, and often indeed across languages and cultures; an identity that one decides to reclaim from a history of multiple assimilations, and that one insists on as a strategy. (de Lauretis 9).

To situate Campbell's writing as an articulation of Métis identity that is "multiple, shifting, [and] self-contradictory" is not to overlook its interventionary politics for creating a stable representation of identity formation, a stability that critics have valorized for its life storytelling possibilities as "Campbell's autobiography" (Acoose 139; Grant

126). Rather it is to identify how Campbell's writing participates in a critical approach to social reality whose political purpose is to intervene in political discourse that constructs the narratives of the nation–state.

Homi Bhabha theorizes such an approach for reading Campbell's text, in "DissemiNation: Time, Narrative, and the Margins of the Modern Nation," where he examines how disenfranchised subjects appropriate an oppositional consciousness by adopting a form of social and textual affiliation to challenge the double narrative of subject–constitution that produces the modern nation. Bhabha claims that "the people" who constitute the nation are represented discursively both as the historical "objects" of a nationalist pedagogy and as the contemporary "subjects" of a process of signification (297). He argues that the nation produces the people as objects by instituting a historical origin that installs them as the political body. At the same time, Bhabha claims, the nation creates the people as subjects by knitting the "scraps, patches, and rags of daily life" into a fabric that represents the national culture (297). In the interplay between the pedagogic representation of the nation as the historical union of the people and the performative representations of the people as the signs of the national culture, Bhabha asserts, the modern nation is produced and becomes a site for "*writing the nation*" (297). This space of inscription, however, is always "ambivalent," since it exists in tension between "the continuist, accumulative temporality of the pedagogical" and the "repetitious, recursive strategy of the performative" (297). For Bhabha, this tension is mediated by the concept "the people;" however, since the people are "neither the beginning or the end of the national narrative," "they represent the cutting edge between the totalizing powers of the social and the forces that signify the more specific address to contentious, unequal interests and identities within the population" (297). If the people are neither the "beginning" nor the "end" of the national narrative, then it is at the site of the people as writing subjects that resistance to the pedagogic narrative of the nation takes place. As Bhabha argues, "it is precisely in reading between these borderlines of the nation–space that we can see how the 'people' come to be constructed within a range of discourses as a double narrative movement" (297). In Bhabha's formulation of the "nation as narration," the site of "the people" emerges as a resistant space within cultural narratives from which to challenge the pedagogic, subject–constituting effects of national discourse.

Bhabha's theorization of "the people" as the "cutting edge" that pivots between the "totalizing social forces" of nationalist discourse and the conflicted political stance of "unequal interests and identities within the population" articulates how "the people" as a disempowered group can appropriate through writing a position from which to challenge the dominant historical narrative of the nation–state. This notion of "writing," however, appears to rely on the assumption that "the people" as a concept have undifferentiated access to the means of interpretation and communication. But as Nancy Fraser suggests, in "Toward a Discourse Ethic of Solidarity," this is not the case. Fraser contends, "in sexist, racist and class societies, women, persons of color, the poor and other dominated persons would have a disadvantaged position with respect to the socio–cultural means of interpretation and communication" (425). Their disadvantage, she argues, as members of subordinated groups, leaves them with two options: "they c[an] either adopt the dominant point of view and see their own experiences repressed and distorted; or they c[an] develop idiolects capable of voicing their experience and see these marginalized, disqualified and excluded from the central discursive institutions and arenas of society"

(426). Instead of imposing either option, though, Fraser proposes that as feminist critics we begin from a premise that "take[s] into account [the idea] that dominant and subordinate groups stand in different and unequal relations to the means of interpretation and communication" (426). For Fraser, feminist critics need to shift their political standpoint of the people from a "monological model of moral deliberation" to a "dialogical model" in "favour of the concrete other" (426). This conceptualization of the concrete other, according to Fraser, would not privilege the standpoint of the "*individualized concrete other*" (427), but rather would "focalize the dimension of the relational concept of identity" to interpret the "standpoint of the collective *concrete other*" (428). Such a shift in focus, in Fraser's view, would bring to our attention a "standpoint that require[s] one to relate to people as members of collectivities or social groups with specific cultures, histories, social practices, values, habits, forms of life, vocabularies of self–interpretation and narrative traditions" (428), as well as establish among collectivities of women "norms of collective solidarities" that are not "those of formal institutions such as rights and entitlements" but "new vocabularies and narrative forms capable of giving voice to many different kinds of women" (429, 428).

For Métis women in Canada, the project of articulating the histories and struggles of "many different kinds of women" has been impelled by political as well as cultural considerations. Until the passage in 1982 of Canada's Constitution Act, Métis people remained unacknowledged federally as a distinct group of Native people with their own socio–cultural identity (Peterson and Brown 4). While the lack of federal recognition of Métis people illuminates how white supremacist assumptions constitute the pedagogic narrative of the nation "Canada," the arbitrary cultural narratives that form the fabric of the national culture indicate the problem of overdetermination in the construction of an idea that is the "Métis people" in Canada. This narrative circulates as the sign of difference in cultural discourse and attempts to obscure the "heterogenous histories of contending peoples, antagonistic authorities, and cultural locations" (Bhabha "Dissemination" 299). Jacqueline Peterson and Jennifer Brown identify the multiple determinations that attempt to secure a heterogeneous Métis identity as a "corrupt" space that is neither the privileged "white" identity of the dominant settler culture nor the authentic "red" identity of the First Nations peoples. They observe that "persons of mixed Indian and European ancestry who, for whatever reason, are not regarded as either Indian or white are referred to, often pejoratively, as 'halfbreeds,' 'breeds,' 'mixed-bloods,' 'métis,' 'michif,' or 'non-status Indian'" (4). Insofar as the dominant culture utilizes these designations to belittle Métis identity, Métis scholars and political activists appropriate these terms to illustrate how they may be employed resistantly as individual sites for reinscription and decolonization. Janice Acoose, for example, connects the name "Halfbreed" to a system of matrilineal family practices and communal identities that remain unrepresented in historical accounts of the Métis community.[22] Howard Adams retains the label "Halfbreed" to manipulate social conventions that would privilege the term "Métis" as a more "polite" identification. For Adams, the term "Halfbreed" sustains its origins in the system of economic exchange foundational to the term's development. In his ground-breaking examination of the historical structures of racism and economic exploitation out of which Métis communities were forged, Adams identifies how the name "Métis" signified as a more polite term used by white settlers who considered the name "Halfbreed" a vulgar expression for referring to those people of part Indian, part white origin. "Halfbreed," according to Adams, was the name given to Métis people "by white traders in the early fur-trading years" (ix). Adams, in what has been referred to by Janice Acoose as a "gesture of defiance" (150), continues to refer to himself publicly as a "Halfbreed" (7). Métis scholars have thus attempted not only to build relationships with each other through cultural discourse, but they have also sought to establish coalitions at the political level. In 1996, the Métis National Council, in conjunction with the Bloc Québécois, proposed an act to instate Louis Riel as a "founding father" of Canada in recognition of the common ground and communal identity embodied in the notion of "Métis" so as to destabilize the dominant historical narrative of Canada's beginnings that position the Métis people as a band of criminal renegades committed to overthrowing the country.[23] It is within the context of these critiques of the nationalist narrative of Métis identity that I locate the interventionary politics of Campbell's writing by positioning her within a community of scholars who have attempted to reconceptualize Métis identity and by illustrating how Campbell's articulation of gender identity participates in the political practice of decolonization. In Campbell's life writing, the space of gendered identity is inscribed not only as a geopolitical social location that articulates Métis disempowerment but also an imaginative site of social and historical transformation that enables gender reconstruction.

For in Maria, Campbell constructs a protagonist who is not only outraged by the poverty and economic disparity within the Métis community, but also with her socially regulated gender identity as a Métis woman. To escape from the impoverishment of her family, Maria dreams of becoming "Cleopatra" and fleeing from her community (18); she rebels against her father when he replaces her with her brother for the baseball game (33);

she believes in the promises of Jim Brady that the Métis people will unite to demand justice from the government and be delivered from their economic hardships (65). In a pivotal scene during Maria's early socialization as a young woman, Maria's great–grandmother Cheechum takes her aside and beats her with a willow switch for accusing her parents of not providing for the family (47). When Maria falsely believes herself capable of rescuing her siblings from the social services people, she marries a man she barely knows to keep her family together (106). This decision leads to disaster when the man abandons her in Vancouver, and, finding herself alone in the city, she begins prostituting herself to maintain a drug habit (106, 124). Even though each of these experiences indicates Maria's growing recognition of how her subjectivity is constrained by traditional patriarchal practices, it is the tension in Campbell's narrative between the desire to celebrate her Métis identity, to satisfy her friend's request that she make her story a "happy book" (13), and her desire to articulate the systemic poverty and oppression that plague the Métis community that produces the space of political consciousness. For Campbell's life writing suggests that identity can be a site for initiating political change, history can represent a narrative open to resignification, and discriminatory discourses can be recognized as points of departure for inscribing political consciousness.

Thus, Campbell pledges her book to "my Cheechum's children" to acknowledge a matrilineal form of inheritance alongside her recognition of Louis Riel's importance to the Métis people (11). She retells the story of Riel's campaign on behalf of Métis rights not only to insert a narrative of origins that begins with the Canadian government's colonizing practices but also to insist that her beginnings are forged by Riel's activism and by her great-grandmother Cheechum's resistance to the early Canadian settlers (15). Campbell's narrative renders the story of a life as it emerges at the intersection of race, gender, and history. It also recounts the history of those women who have been omitted from historical accounts of the Métis people in Canada.

Campbell's inscription of an oppositional consciousness enables a more complicated feminist analysis of the politics of location, one that recognizes how Métis women are positioned in society and illuminates the intersections between race, class, gender, and history. Such an analysis provides a point of departure for considering how our external social subjectivities have been produced at odds with our internal self–conceptions. Campbell's story thus constitutes a revisionary critique of Métis identity and of personal sacrifice. Her commitment to writing this personal history represents an obligation to social transformation that is both inspiring and enabling.

In keeping with the community–based ideal of political praxis that Campbell's text articulates, it is worth considering an alternative approach for conceiving the subject of feminist discourse, one that shifts the project of feminist politics from women's rights to a reconfiguration of these rights as women's needs. The life stories of aboriginal women as they are articulated through legal texts and autobiographies suggest an important critical perspective for undertaking this work. A politically committed feminist practice does not have to conceptualize these claims solely in terms of an abstract notion of equality for aboriginal women. Representing a politics of needs as well as a politics of rights is an important way of both reconceiving aboriginal feminist practice and recognizing the provocative intervention of Campbell's text.

Appendix A

Department of Justice Canada

http://laws.justice.gc.ca/en/C-12.3/27115.html

CANADIAN BILL OF RIGHTS

1960, c. 44

An Act for the Recognition and Protection of Human Rights and Fundamental Freedoms

[Assented to 10th August 1960]

The Parliament of Canada, affirming that the Canadian Nation is founded upon principles that acknowledge the supremacy of God, the dignity and worth of the human person and the position of the family in a society of free men and free institutions;

Affirming also that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law;

And being desirous of enshrining these principles and the human rights and fundamental freedoms derived from them, in a Bill of Rights which shall reflect the respect of Parliament for its constitutional authority and which shall ensure the protection of these rights and freedoms in Canada:

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

PART I
BILL OF RIGHTS

1. It is hereby recognized and declared that in Canada there have existed and shall continue to exist without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely,

(*a*) the right of the individual to life, liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law;

(*b*) the right of the individual to equality before the law and the protection of the law;

(*c*) freedom of religion;

(*d*) freedom of speech;

(*e*) freedom of assembly and association; and (*f*) freedom of the press.

2. Every law of Canada shall, unless it is expressly declared by an Act of the Parliament of Canada that it shall operate notwithstanding the *Canadian Bill of Rights*, be so construed and applied as not to abrogate, abridge or infringe or to authorize the abrogation, abridgment or infringement of any of the rights or freedoms herein recognized and declared, and in particular, no law of Canada shall be construed or applied so as to

(*a*) authorize or effect the arbitrary detention, imprisonment or exile of any person;

(*b*) impose or authorize the imposition of cruel and unusual treatment or punishment;

(*c*) deprive a person who has been arrested or detained

(i) of the right to be informed promptly of the reason for his arrest or detention,

(ii) of the right to retain and instruct counsel without delay, or

(iii) of the remedy by way of *habeas corpus* for the determination of the validity of his detention and for his release if the detention is not lawful;

(*d*) authorize a court, tribunal, commission, board or other authority to compel a person to give evidence if he is denied counsel, protection against self crimination or other constitutional safeguards;

(*e*) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations;

(*f*) deprive a person charged with a criminal offence of the right to be presumed innocent until proved guilty according to law in a fair and public hearing by an independent and impartial tribunal, or of the right to reasonable bail without just cause; or

(*g*) deprive a person of the right to the assistance of an interpreter in any proceedings in which he is involved or in which he is a party or a witness, before a court, commission, board or other tribunal, if he does not understand or speak the language in which such proceedings are conducted.

3. (1) Subject to subsection (2), the Minister of Justice shall, in accordance with such regulations as may be prescribed by the Governor in Council, examine every regulation transmitted to the Clerk of the Privy Council for registration pursuant to the *Statutory Instruments Act* and every Bill introduced in or presented to the House of Commons by a Minister of the Crown, in order to ascertain whether any of the provisions thereof are inconsistent with the purposes and provisions of this Part and he shall report any such inconsistency to the House of Commons at the first convenient opportunity.

(2) A regulation need not be examined in accordance with subsection (1) if prior to being made it was examined as a proposed regulation in accordance with section 3 of the

Statutory Instruments Act to ensure that it was not inconsistent with the purposes and provisions of this Part.

1960, c. 44, s. 3; 1970-71-72, c. 38, s. 29; 1985, c. 26, s. 105; 1992, c. 1, s. 144(F).

4. The provisions of this Part shall be known as the *Canadian Bill of Rights*.

PART II

5. (1) Nothing in Part I shall be construed to abrogate or abridge any human right or fundamental freedom not enumerated therein that may have existed in Canada at the commencement of this Act.

(2) The expression "law of Canada" in Part I means an Act of the Parliament of Canada enacted before or after the coming into force of this Act, any order, rule or regulation thereunder, and any law in force in Canada or in any part of Canada at the commencement of this Act that is subject to be repealed, abolished or altered by the Parliament of Canada.

(3) The provisions of Part I shall be construed as extending only to matters coming within the legislative authority of the Parliament of Canada.

Endnotes

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[1] I insist on using the term "disenfranchised" throughout this chapter because of a problem of agency signaled by the substitution of the term "marrying out" in discussions of Indian women and their status. Kathleen Jamieson formulates the expression in *Indian Women and the Indian Act: Citizens Minus* (30), and it is taken up by Peter Kirby in his study of the relationship between the Charter of Rights and Freedoms and Bill C–31, where he analyses the implications of the federal government's amendments to the *Indian Act* for failing to recognize the "sovereignty, self-determination, [and] self-government of Indian tribes or nations" in Canadian law (93). My point in emphasizing the term "disenfranchised," rather than "marrying out," reflects a problem in the determination of agency that is often ascribed to aboriginal women for marrying out. It is simply not the case that they choose marriage over Indian identity, but rather that the federal government has stipulated this choice for them. As my subsequent discussion illustrates, this slippage is crucial to the discourse of blame that informs the issue of disenfranchisement and that attributes choice to women who have none.

For an analysis of the relationship between colonial policy, "marrying out," and the ideology of patriarchal descent, see Julia Emberley's "The Bourgeois Family, Aboriginal Women, and Colonial Governance in Canada: A Study in Feminist Historical and Cultural Materialism," *Signs* 27.1 (2001): 59-85. I am not entirely persuaded by Emberley's argument which takes gender as an organizing category for an historical analysis of the relations between aboriginal women and men so as to claim that: "The disentitling of aboriginal women from indigenous governance, accomplished by establishing fraternal links between aboriginal and colonial men, created fissures within

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aboriginal families along gender lines and eventually led to patriarchal relations and the regulating of 'the aboriginal family' on a European bourgeois model" (62). In beginning with gender rather than race *and* gender, Emberley's analysis overlooks the complication that disenfranchised persons exceeded gender identity to include Métis as well as off-reserve Indians. Such complications suggest that the question of disenfranchisement needs to be read for its uneven developments in history rather than for its consistent pattern of dispossession of aboriginal women.

[2] Under the terms of application for section 12(1)(b) of the Indian Act of 1951, those persons not entitled to be registered as Indians included, "a woman who is married to a person who is not an Indian" (R.S.C. 1951, c. 149 indexed in Venne 319). As Kathleen Jamieson argues, however, women who "married out" represented not the exception to repealed band membership but rather the rule. Jamieson notes that in the revised legislation passed on 17 May 1951, the "enfranchisement and membership sections were greatly elaborated upon and altered," thereby significantly "increas[ing] the disadvantages for women who 'married out'" and further emphasizing "the male line of descent" as the "major criterion for [band membership] inclusion" (59–60). According to Jamieson, the amendments to band membership provisions, by becoming "vastly more elaborate" in order to "spell out at length" who was and was not entitled "to be registered as an Indian," not only signal the contradictory logic of *Indian Act* legislation but also gesture to the ambiguities in government policy as it deploys racial categories to secure political ends (60). The membership provisions, though contradictory, remain sweeping in their effects for even as they articulate membership through the "male line" they dispossess women in systemic ways. One of most significant amendments for Indian

women, known commonly as the "double mother" rule, stipulated that persons ineligible to be registered included the following: "(iv) a person born of a marriage entered into after the coming into force of this Act and [who] has attained the age of twenty–one years, whose mother and whose father's mother are not persons described in paragraph (a), (b), (d), or entitled to be registered by virtue of paragraph (e) of section eleven [of the *Indian Act*], unless, being a woman, that person is the wife or widow of a person described in section eleven" (Venne 319). Jamieson brilliantly illuminates both the gendered dimensions of these discriminatory provisions and their perpetuation of the historical erasure of the recognition of Indian women *as* Indians in history. She states, "What this means is that a child of a white or non–registered Indian mother and grandmother, who therefore has only one–quarter Indian Act "blood," is to be deprived of Indian status on reaching the age of 21. This section would apply to children whose maternal grandmothers were voluntarily or involuntarily enfranchised Indians, or Indians who were left off band lists or lived in the U.S. for over five years, or Métis who might have three Indian grandparents, as much as the children of white women. This has in fact clearly nothing to do with biology or Indian 'blood' but everything to do with the Indian Act" (60). To recover an understanding of how the present moment of women's social situation occurs in response to their social positions in history, such policies suggest that the recovery of Indian women from history must begin with an analysis of the state and its policies in order to recognize that even during times of what appear to be "progressive changes" state policies may also be implicated in patterns of relative loss of status for women. These patterns suggest, however, that such a recognition must begin with the state and its policies.

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[3] The band membership provisions in Indian Act legislation exhibit what Constance Backhouse has called the "unabashed male chauvinism" that "makes Indian status pivotal to one's relationship with an Indian man" (21). The provisions declare under section 11 that a person is entitled to be registered if that person "*(c)* is a male person who is a direct descendant in the male line of a male person described in paragraph *(a)* or *(b)*;" "*(d)* is the legitimate child of (i) a male person described in paragraph *(a)* or *(b)* or (ii) a person described in paragraph *(c)*;" "*(e)* is the illegitimate child of a female person described in paragraph *(a)*, *(b)* or *(d)*, unless the Registrar is satisfied that the father of the child was not an Indian and the Registrar has declared that the child is not entitled to be registered;" or "*(f)* is the wife or widow of a person who is entitled to be registered by virtue of paragraph *(a)*, *(b)*, *(c)*, *(d)* or *(e)*" (Venne 319).

[4] Section 2 of the Canadian Bill of Rights dictates that "Every law of Canada shall, unless it is expressly declared by an Act of Parliament of Canada that it shall operate notwithstanding the *Canadian Bill of Rights*, be so construed and applied as not to abrogate, abridge or infringe or to authorize the abrogation, abridgement or infringement of any of the rights or freedoms herein recognized and declared" (*Ontario Reports* at 392).

[5] Judge Grossberg's decision to retain intact *Indian Act* legislation should not be considered anomalous given the unprecedented opportunity to protect civil liberties enacted under the *Canadian Bill of Rights*. As Joseph E. Magnet explains, during the twenty–year period in which the courts attempted to enforce the *Canadian Bill of Rights*, only one statute was rendered inoperative under the Bill. Magnet notes that this judicial outcome was not entirely surprising given the mediating factors that attached to

applications of the Bill. According to Magnet, the *Canadian Bill of Rights* originated as a federal statute brought into effect by the Diefenbaker Administration in 1960 to protect Canadian civil liberties. It applied only to federal legislation and had no application to provincial legislation. Magnet states that the Bill represented a "quasi–constitutional" document that authorized special rules of "statutory interpretation to govern conflicts between itself and ordinary statutes" (n.p.). Rather than render void "ordinary statutes" inconsistent with itself, the Bill "provide[d] that the ordinary statutes shall not be 'construed or applied' so as to create conflict with the Canadian Bill of Rights" (n.p.). If, however, a conflict did occur and the ordinary statute could be construed in "two ways, one of which d[id] not conflict with the Canadian Bill of Rights," then the Canadian Bill of Rights directed the courts to adopt the construction that did not render the statutes in violation of each other (Magnet n.p.). For the full text of the civil liberties protected by the *Canadian Bill of Rights*, please see Appendix A.

Although Magnet's account of the procedures for applying the Bill explains structurally why so few of the statutes that violated the Bill's mandate failed to be overturned, his analysis of the rules of application does not take into account the question of judicial discretion possessed by the courts. As Pierre Bourdieu explains, a judge, far from being an "executor" "whose role is to deduce from the law the conclusions directly applicable to an instant case" enjoys a "partial autonomy" because his decisions are "based on a logic and a system of values very close to those of the texts which he must interpret" (826). Bourdieu contends that in spite of the "existence of written texts [which] tends to diminish the variability of behaviors" and even though the "conduct of juridical actors can be referred and submitted [. . .] to the requirements of law," legal decisions "truly have the function of *inventions*" because they retain a "proportion of arbitrariness" that can be imputed to "organizational variables such as the composition of the deciding body or the identities of the parties" (826). Far from acting as "agents of the state" without discriminating autonomy, judges, according to Bourdieu, retain both a "partial autonomy" and a discretionary power when deciding cases. Bourdieu's reading of the "partial autonomy" that obtains to judges as a consequence of their hierarchical position in the juridical field makes it possible to interpret Judge Grossberg's evaluation of Lavell's case as an indication of his prejudice against her. Much of this prejudice is represented in his commentary with regard to Lavell's appeal. In his judgment, Judge Grossberg points to the "*dubious relevance* of the legal point [he has] to decide;" stresses that "*with no disrespect to her*, [he is] unable to accept her assertion that she cannot retain her Indian culture, heritage and customs and inculcate these in her child or children if she so desires" (emphasis added, 394); and underscores the "appellant's *emotional and militant evidence*" (emphasis added, 395). Judge Grossberg's interpretation of Lavell's appeal exposes the added dimension of race discrimination that she experienced before the court, for not only did Judge Grossberg rule against her claim in arriving at his decision, but he also exposed her to the humiliation of disavowing the legitimacy of her concerns for the retention of her family and culture. Lavell confirms this reading of the court bias in an acceptance speech she gave in 1990. In it, she states that "Judge Grossberg made some very nice comments in the courtroom about how I should be happy to no longer legally be an Indian and glad that marriage to David took me away from the terrible reserves. He also said that I wanted to have my cake and eat it too. That was my introduction to the Canadian justice system" (22). One of the advantages of reading the

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earlier decision next to the later cases is to recognize how subsequent judgments "narrow" (Bourdieu 827) the perspective of the court to the legal question at hand so as to eliminate the level of affective subordination that subjects experience as a result of their appeal to the judiciary for resolution of their claims.

[6] The Native Council of Canada (NCC), formed in 1971 and since renamed the Congress of Aboriginal Peoples (CAP; date of renaming unknown), organized in response to the establishment of political association for status Indian organizations through the National Indian Brotherhood (now the Assembly of First Nations). The NCC set out to provide political representation for Métis and non–Status peoples so as "to advance on all occasions the interest of the Métis and Non–Status people of Canada, and to co–ordinate their efforts for the purpose of promoting their common interest through collective action" (Factum of the Native Council of Canada at para.1). Membership in the Council at the time of the Lavell/Bedard case included "many thousands of non–status Indian women and Métis who [were] the descendants of the union of Indian women and Caucasian men" but who, "by virtue of Sections 11 and 12 of the Indian Act" had been "deprived of their rights, which by tradition and custom, they should have as members of the Indian community" (2). The objectives of the CAP remain the same today although their constituency has increased to "over 800,00 off–reserve Indian, Inuit, and Métis people" most of whom "share common problems in terms of exclusion form policies and programs for other Aboriginal peoples" (Congress of Aboriginal Peoples n.p.). A description of their constituency and priorities can be found at their website, <http://www.abo-peoples.org/background/constituency.html>, and includes as one of their objectives the problem of "the Indian Act system and its consequences; particularly

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for those who are excluded from registration, band membership, residency on reserve, or related programs and benefits and [who] want to address those concerns" (n.p.).

[7] The Alberta Committee of Indian Rights for Indian Women [no date provided for when they originated] was incorporated under the *Alberta Society Act* and had a membership of "250 Indian Women" who formed for the "purpose of asserting and attaining rights for themselves and [for] other Indian women" (Factum: The Alberta Committee on Indian Rights for Indian Women et al. at para. 2). They represented, in addition to their membership, several women's organizations and individuals who were either dispossessed themselves because of *Indian Act* legislation or who opposed the actions taken against Lavell and Bedard by the national and provincial Indian organizations. Advocacy for Lavell and Bedard thus came from the following: Viola Shannacappi, a "treaty Indian" and member of the "Rolling River Reserve in Manitoba," who disagreed with the intervention against Lavell and Bedard by the "Manitoba Indian Brotherhood in supporting the Appeal by the Attorney General of Canada" (para. 2); Monica Agnis Turner, an Indian from Geraldton, Ontario and member of the Lake Helen Reserve, who lost her status in 1950 after she married Edgar Douglas Turner, a Cree Indian but not a member of the Cree Indian Band, was requested to "apply for enfranchisement," and did so "upon the misunderstanding that by doing so she would have her Indian status restored to her after five years" (para. 2–3); The University Women's Club of Toronto and the University Women's Graduates Limited Toronto which was incorporated under the laws of the Province of Ontario and were committed to "working for equal rights and equal opportunities for women not only in universities, but [also] elsewhere whenever inequalities between women and men [were] known to exist" (para. 3); Rose Wilhelm, a

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Registered Nurse from the City of Woodstock, who was a "member of the Cape Croker Band until her marriage to Lawrence Wilhelm in 1962, whereupon she was advised that she had lost her status as an Indian, as a member of the Cape Croker Band, and had lost her right to occupy property she had inherited" (para. 3–4); and the North Toronto Business and Professional Women's Club Inc., a non–profit organization incorporated under the laws of the Province of Ontario in 1948 that worked "to develop and protect the status of women" in a manner similar in kind to the objectives of other Business and Professional Women's Clubs across Canada (para. 4).

[8] The factum entered by this association does not indicate its constituency, nor is it clear from the statement of facts in the case what political standing this group held. Because the Anishnawbekwek of Ontario Incorporated supported Lavell's reinstatement, I have assumed that they appeared on behalf of Lavell's community at Wikwemikong. Speaking of her support from her Band at a conference in 1990, Lavell indicates, "Chief John Wekegigig and the Band Council at the time supported [her] wholeheartedly [because] the Chief had faced the same problem when his own daughter was in a similar situation" (23). She also states, however, that "before the case was decided, the Chief died in a car accident and his son, who was also his successor, listened to the media campaign [against Lavell and Bedard] and totally opposed [her]" (23). I raise this point to indicate that my assumption of community support here may be erroneous.

[9] The inequalities engendered by *Indian Act* legislation and noted by the Anishniawbekwek of Ontario cut across race and sex distinctions to testify to a form of state interference in the lives of Indian peoples that could only precipitate the erosion of Indian women's cultural status and foster a diminished sense of their importance to the

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reserve communities. These inequities create a hierarchy of race and sex distinctions through the following means: "between Indian women and non–Indian women the legislation imposes a fetter on an Indian woman's freedom to marry;" "between Indian women and Indian men the legislation imposes a burden on the former which is not imposed on the latter;" "between Indian women who marry non–Indian men and Indian women who participate in relationships other than formal marriage with non–Indian men, the legislation . . . discourages formal marriage;" and "between Indian women who marry non–Indian men and Indian women who marry Indian men, the legislation imposes a burden only on the former" (para. 7–8).

[10] These included the Indian Association of Alberta; the Union of British Columbia Indian Chiefs; the Manitoba Indian Brotherhood; the Union of New Brunswick Indians; the Indian Brotherhood of the Northwest Territories; the Union of Nova Scotia Indians; the Union of Ontario Indians; the Federation of Saskatchewan Indians; the Indians of Quebec Association; the Yukon Native Brotherhood; and the National Indian Brotherhood" (Factum of the Intervenants cover page).

[11] The Attorney General of Canada foreclosed an opportunity for the court to establish an alternative stage of social relations when it asserted that the proper role of the judiciary is to uphold the decisions of Parliament and the public. This reminder emanated from the following assertion: "The fact that the *Indian Act* does not entitle an Indian woman to registration under the statute upon her marriage to a non–Indian involves no abrogation, abridgement or infringement of the right of the individual to equality before the law and the protection of the law within the meaning of section 1(b) of the *Bill of Rights*. The legislative policy of the *Indian Act* in this respect may or may not be socially desirable,

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but it is not the function of this Court to determine that question" (para. 19).

[12] The published court record provides a very narrow interpretation of the issue to be decided, one that effectively omits the competing investments of the parties involved. Although Bourdieu explains this process of "narrowing" the interpretation of legal texts to the legal question at hand as arising from the "extraordinary elasticity of texts," which enables "jurists and judges . . . to exploit the polysemy or the ambiguity of legal formulas by appealing to such rhetorical devices as *restrictio* (narrowing) . . . [and] *extensio* (broadening) . . . [so as] to maximize the law's elasticity" (827), the legal view of the issues that arises in the claims of Lavell and Bedard not only displaces a recognition of the complex case leveled against Bedard by the Council of the Six Nations, (one visible in the factums but not in the court transcript), but also disavows an apprehension of the contradictory social relations engendered for these women by the pursuit of their claims. For example, because Jeannette Lavell had the support of her community, she could rightly imagine returning to the Wikwemikong Reserve as a member should the court decide in her favour, or at the very least, she could anticipate visiting the reserve with the expectation of being made welcome if the court decided against her. By comparison, Yvonne Bedard could not entertain such a hopeful outcome. Bedard was opposed in her suit by members of the Council of the Six Nations *and* by elected members of the Band Council, in addition to which the Council objected to Judge Osler's decision to rescind their right to determine the proper legal occupant of band property. Such an undermining of the authority of an elected council in the small, intimate communities established through the reserves could not help but have far–reaching consequences for Bedard had she tried to return to the community. Little is recorded about what happened to Bedard

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and her children following the Supreme Court's decision. However, scholars such as Janet Silman in *Enough Is Enough: Aboriginal Women Speak Out*, have documented the social and economic consequences for women who have attempted to return "illegally" to their reserves after "marrying out." Considered by the Indian Agent, chief, and band council to be "outsiders" and "non–status" intruders, the women of the Tobique Indian Reserve were denied housing, jobs, and financial support, and had to live in condemned housing or with relatives in order to sustain their families. An inspiring account of how these women endured despite these devastating conditions can be found in chapters 1 and 2 of Silman's as–told–to collection. See "Strong Women, Hard Times" and "We're Not Taking It Anymore" for a series of interviews that explains how they fought against their disinheritance through organized protest.

[13] The court's disenfranchisement of Lavell and Bedard fails to register the enormity of losses that Indian women suffer as a consequence of their failure to retain band membership through *Indian Act* legislation. As Kathleen Jamieson identifies in *Indian Women and the Law in Canada: Citizens Minus*, the disadvantages to Indian women traverse their social, political, economic, and civil rights, and stretch literally from "marriage to the grave" (1). Jamieson states:

> [t]he consequences for the Indian woman of the application of section 12(1)(b) of the Indian Act extend from marriage to the grave—and even beyond that. The woman, on marriage, must leave her parents' home and must dispose of any property she does hold. She may be prevented from inheriting property left to her by her parents. She cannot take any further part in band business. Her children are not recognized as Indian and are therefore denied access to [the] cultural and

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> social amenities of the Indian community. And, most punitive of all, she may be prevented from returning to live with her family on the reserve, even if she is in dire need, very ill, a widow, divorced or separated. Finally, her body may not be buried on the reserve with those of her forebears. (1)

[14] Jamieson attempts to problematize this representation of the case, one that occurs in periodical press accounts that, in the aftermath of the Supreme Court decision, claimed Indian women as the "most unequal in Canada" (Dingman 38) or that situated the decision as the outcome to a problem of "individual rights vs. cultural rights" (Miner 28), with Indian women's claims to equity and retention of Indian status interpreted as attempts to extend further their individual autonomy by retaining the right to their Indian status even after they have "married out," at the expense of the cultural autonomy of reserve communities (30). Jamieson critiques the ethnocentrism of this position, which, she claims, begins with the implicit assumption that "all Indians are male" (79). Jamieson's analysis of the court case and its relationship to the intense political climate in which Indian associations were protesting state intervention in their communities is an invaluable analysis of the systemic devaluing of Indian women's rights by the state and by leadership within Native communities. She notes, in particular, that the Attorney General of Canada was asked to intervene in the reinstatements of Lavell on "behalf of the Indian groups opposing Lavell" and that this intervention "changed former indecision and confusion into organized confrontation of Indian against Indian" (84). I understand my work here to be subjecting the legal apparatus to an analysis in terms of race and gender positioning so as to explore what Jamieson describes, but does not elaborate, as "the inexorable process of the law" (84).

For a consideration of the case that examines its contribution to political and judicial issues through its questioning of the "legitimacy of the administration of native peoples in Canada" and its provision of an "opportunity to explore the constitutional value of equality" (28), see John D. Whyte, "The Lavell Case and Equality in Canada." For an analysis of the case as a challenge to the "kinship character" of *Indian Act* legislation (409), see D. E. Sanders, "The Indian Act and the Bill of Rights." It is rather galling to read Douglas Sanders' scholarly assessments of the case, not only because he legally represented the Indian Associations in their opposition to the reinstatements of Lavell and Bedard, but also because his analysis of their claims *as* Indian women infantilizes them as politically unsophisticated based on a notion of Aboriginal communities as "underdeveloped" because of their "absolute [cultural] difference" from non–Native communities. In answer to his question, "Can we anticipate a women's movement within Indian communities comparable to that found in the larger Canadian society?" Sanders responds: "There seem to be two possible views. The first would argue that the Indian communities, as culturally different collectivities, may not be drawn into such concerns. In this view the *Lavell* case was an attempt to impose norms of the dominant society on a culturally different minority, and was, no matter how well motivated, just another piece of cultural imperialism. A second view suggests that the preconditions of the women's movement do not yet exist in Indian communities" (672). My concerns with this interpretation of the case are that the first view represents bad history and the second betrays cultural ethnocentrism. These views represent precisely the dismissive attitudes towards women's experiences of historical disempowerment through the state that Lavell's and Bedard's challenges were designed to address.

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[15] Justice Ritchie stated, "In my view the meaning to be given to the language employed in the *Bill of Rights* is the meaning which it bore in Canada at the time when the Bill was enacted, and if follows that the phrase 'equality before the law' is to be construed in light of the law existing in Canada at that time" (1365).

[16] An important debate has emerged among Aboriginal scholars that claims "the human rights of Aboriginal women—including their civil and political rights—[as] part of the inherent right to Aboriginal self–government under the terms of the *Constitution Act, 1982*" and that also situates "the rights of women" as "rights which women have exercised since the formation of their indigenous societies" (McIvor 35). I am concerned that such assertions, without recourse to the evidence of aboriginal women expressing these rights in history, serve to mystify rather than illuminate how aboriginal women's agency is constrained in society. Claims that rely on legal outcomes, as in the "Sparrow" decision, omit recognition of the law's contradictory social effects. For example, as recently as 1993, the Erminskin Band in Hobbema brought a legal challenge to the restoration of Aboriginal women who had "married out" and been reinstated following their reentitlement to *Indian Act* status under Bill C–31 (Danylchuk A7). Such challenges suggest that the law may be read to implicitly rule in favour of aboriginal women's constitutional rights in one context but be deployed to rescind Aboriginal women's rights in another. Assertions of "Aboriginal women's civil and political rights" as "existing Aboriginal and treaty rights" (McIvor 37) appear somewhat rhetorical in this regard. For a thoughtful examination of the political and social circumstances within which aboriginal women who have been reinstated to band membership under Bill C–31 continue to find themselves disentitled through the opposition to their reinstatements by

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individual bands and the lack of financial guarantees by the federal government, see Joyce Green's excellent exploration of these issues in "Sexual Equality and Indian Government: An Analysis of Bill C–31 Amendments to the *Indian Act*."

[17] This is the critique of the political implications of Western intellectuals who, in being inattentive to how their social subjectivity informs their political analysis, reinscribe the "sovereign subject" of Western humanist discourse as the normative subject of oppositional consciousness (272–3), in Gayatri Spivak's reading of a conversation between Foucault and Deleuze, in "Can the Subaltern Speak?" Spivak argues that this inscription marks the site of the desire of the Western critic for the subject of political consciousness (273). She claims that this desire performs two functions: it enables the critic to recover a subject that is identical to the autonomous subject of the West, thus leaving unexamined the forms of ideological subject–constitution within state formations (275), and it reinscribes the "oppressed subject" as a "knowable object," thus effacing the task of transforming political consciousness (277). While Spivak acknowledges that this "double displacement" of the "desiring subject as Other" follows from "the staging of the world in representation" (279), she appears to be critical of any project that attempts to reconstitute the identity of the subaltern subject (288). Instead, Spivak suggests that the postcolonial critic undertake a programme of investigation that renders visible the mechanism through which the "Third World" is made "recognizable" and "assimilable" to a first-world audience (292). This programme would examine the "assumption and construction of a consciousness or subject" in order to expose how this process of "subject-constitution" enables the domestication of the "other as self" within Western imperialism (295).

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[18] The position adopted by the National Indian Brotherhood in their support of the Attorney General of Canada against Lavell and Bedard was not without a sense of the terrible compromise the organization was forced to make. As Harold Cardinal explains, the alarm raised by the "Corbiere-Laval (*sic*) case" at the mid-1972 meeting of the NIB in Edmonton prompted the Indian Association of Alberta to claim that "there had to be an intervention by Indian people against Mrs. Laval (*sic*)" (110). Cardinal states:

> We realized when we decided to intervene that we would, of course, alienate the feminist movement, and that we would also lose some of our traditional public support. It proved one hell of a mess to get into, because no matter what we did, everyone got mad at us, and it was difficult to maintain a sane and rational discussion on the issues involved. We had one other problem that few white people ever appreciated, and that was trying to cool tempers on the reserves where this was a big emotional issue. It seemed that everyone on the reserves had come into personal contact with this problem: it had affected mothers and fathers who had had to make decisions about their daughters; people who had to decide whether or not to leave the reserve to marry someone off the reserve; old people who had had to make decisions about grandchildren. *This was one issue that had touched everyone personally at one time or another*." (emphasis added; 111)

Cardinal concludes by claiming, "There was an extremely strong feeling on the reserves that a decision had been made by the women involved [presumably Lavell and Bedard], and that they were going to have to live with that decision" (111).

My interest in the complexities of the problem of "marrying out" and my critique of the political approach adopted by the Indian associations emerges not from a desire to

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assign blame to these organizations for failing to recognize the political and community concessions they were being forced to undertake. Rather, I am interested in studying how the manipulation of concepts and definitions by the parties involved participated in what Joan Scott calls the "implementation and justification of institutional and political relationships" (172). Following from Scott's brilliant analysis of the dichotomous pairing of identity and difference in the Sears Case, I understand my investments in the lessons of history to be fuelled by a desire to "articulate a critique of what happened that can inform the next round of political encounter" (172). Since the issue of reinstatement has not been resolved nor gone away (see note 14 above), it remains important to understand how these compromises occurred, and what stakes are involved, in continuing to formulate an interpretation of aboriginal community at the expense of aboriginal women.

[19] Campbell's telling is both comical and painful, allowing the reader to experience at one level the author's childhood innocence and at another, her abject sense of shame and responsibility. Campbell writes, "I will remember forever the look on Mom's face and the way Dad laughed when I walked in with chocolate all over my face and said, 'Here's my Dad.' They were drinking tea at the table. Mom jumped up and said in Cree, 'You wicked girl!' and made a grab for me, but Dad stopped her. He looked at me and started to smile. Then he laughed and laughed. Cheechum was slamming pots around and Mom just sat there, staring at me. It was only then that I realized what I had done" (60).

[20] I am invoking a complementarity between Campbell's discussion and Wendy Brown's assessment of rights discourse in late-twentieth century politics as "necessarily operat[ing] in and as an ahistorical, acultural, acontextual idiom" (97). According to Brown, rights "claim distance from specific political contexts and historical vicissitudes,

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and they necessarily participate in a discourse of enduring universality rather than provisionality or partiality" (97). Brown claims, "while the measure of their political efficacy requires a high degree of historical and social specificity, rights operate as a political discourse of the general, the generic, and [the] universal" (97). For Campbell, the abstract promise of legal rights works in conjunction with the Christian ethos of the nation-state to require both her recognition of rights as the discursive register within which to articulate her desire for recognition by the state and her obedience to the disavowal of that desire through the state's moralizing institutions. Campbell writes:

> One of my teachers once read from St. Matthew, Chapter 5, Versus 3 to 12: 'Blessed are the poor in spirit for they shall inherit the Kingdom of Heaven.' . . . I became very angry and said, 'Big deal. So us poor Halfbreeds and Indians are to inherit the Kingdom of Heaven, but not till we're dead. Keep it!' My teacher was furious[,] . . . and I had to kneel in the corner holding up the Bible for the rest of the afternoon. . . . I used to believe there was no worse sin in this country than to be poor. (61)

[21] At issue for LaRocque in these arguments is the manner in which academic work by Native scholars is deemed unacceptable in Western-controlled education systems because of the use of experience as a basis for knowledge production. Although LaRocque identifies the irony of these accusations in light of the lack of scholarship that analyses "the degree of bias, inflamatory language, and barely concealed racism evident in early Canadian historical and literary writings on Native peoples," and whereas LaRocque argues that scholarship by Native people provides "the other half" of the story of racism in Canada (12), I would argue that the dismissal of Native scholarship on the grounds of

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subjectivism, like the analysis of Native literature that suggests the writing is inherently political, emerges out of the same approach that positions Native peoples within a development/underdevelopment paradigm.

[22] Janice Acoose provides an analysis of Maria Campbell's attempts in *Half-breed* to recover the life stories of those women who have been overlooked in historical accounts of the Métis people. Acoose's thoughtful analysis of the intersections between sexism and racism in Campbell's life story enables an understanding of how these narratives have converged to obscure and silence the roles of women in Métis communities. For the reference to Janice Acoose's family's practice of referring to themselves as "Halfbreed" in spite of the current popularization of the term Métis, see page 150.

[23] The Act, identified as Bill C-297, reads, "Whereas not withstanding his conviction, Louis David Riel has become a symbol and a hero to successive generations of Canadians who have, through their governments, honoured and commemorated him in specific projects and actions" (House of Commons Canada 3). This act was reintroduced in 1996 following the prevention of a vote on a similar bill by Liberal and Reform members of the Standing Committee in December 1994. In spite of the Quebec Referendum on sovereignty (1996) and the treatment of Native peoples by the Bloc in their efforts to secure Quebec as a distinct society in Canada, I remain convinced that this bill represents an important attempt to establish political coalitions between marginalized groups. The effectiveness of these coalitions became visible during the media interviews with provincial leaders from the Métis National Council following the first reading of the bill on June 4, 1996. In the aftermath of the parliamentary proceedings, Métis community leaders expressed their intent to have Louis Riel instated as a founding father of Canada.

Chapter 2

'And Justice for All': Theorizing the Politics of Community Activism in Jeannette Armstrong's *Slash* and Leonard Peltier's *Prison Writings*

> Interpretations which occasion violence are distinct from the violent acts they occasion.
>
> Robert Cover "Violence and the Word" (1613)

> It goes without saying that discourses on double affirmation, the gift beyond exchange and distribution, the undecidable, the incommensurable or the incalculable, or on singularity, difference and heterogeneity are also, through and through, at least obliquely discourses on justice.
>
> Jacques Derrida "Force of Law" (929)

Chapter One suggested that legal texts could be read productively for their disclosure of the life stories of aboriginal women so as to critique literary/critical approaches to this literature that constructed aboriginal women as transparent subjects and agents in their own self-transformation. Problematizing the historical context as a condition of production for Maria Campbell's *Half-breed*, I argued that the status of disenfranchised women within the nation state generated the need for a coalitional vision of aboriginal feminism that articulated its subject cross-culturally through a recognition of aboriginal women's complex historical and social locations. My purpose was to explore how the political and cultural background comprised of debates within aboriginal communities about the status of disenfranchised women suggested the need for a coalitional vision of aboriginal feminist community that founded its subject on aboriginal women's cross-cultural identities, rights, and needs. Campbell's autobiography, *Half-breed*, I suggested, theorized the importance of identifying this subject, and of reading law and autobiography together so as to provide an interpretive framework for articulating a politically committed feminist practice.

This chapter also takes up the question of political identifications, but does so by exploring social relations of power, which, I suggest, implicate yet disavow a recognition of gender relations and women. The law-literature dialectic I examine is represented by a criminal case involving the arrest and conviction of Leonard Peltier for first-degree murder. The trial of an American Indian Movement (AIM) activist, I argue, has an important influence on Jeannette Armstrong in her consideration of AIM's legacy for aboriginal/indigenous communities in *Slash*. I claim that Armstrong's engagement with this context not only raises the question of the relationship of literature to social justice, but also illustrates how the gender coding of certain terms, such as "political activism," established and naturalized normative definitions of gender identity, which were embedded in political discourses of the time. Examining both Armstrong's novel, *Slash* (1985), and Peltier's memoir, *Prison Writings* (1999), to provoke an analysis of forms of individual and collective political activism, this chapter also sketches the contours of a debate about law, literature, and deconstructive practice in order to suggest how literature may address the cause of social justice. By situating Peltier's incarceration and conviction as a discursive background to *Slash*, this chapter explores how gender relations also illustrate power relations in the social sphere. I propose that Armstrong's text critiques AIM's organizing politics, on the one hand, for failing to provide politically empowering narratives of identity for its members, and on the other, for naturalizing conventional representations of women that, by implication, made possible their dismissal by the movement.

United States of America and Leonard Peltier

On May 3, 1976, Leonard Peltier appeared before the British Columbia Supreme Court as a fugitive charged with the murders of Jack Coler and Ronald Williams, two Special Agents for the Federal Bureau of Investigation (FBI) who had been killed in a violent confrontation between American Indian activists and FBI officials on the Pine Ridge Indian Reservation in South Dakota. Peltier, a Chippewa-Lakota Indian and member of the American Indian Movement (AIM), was pursued by police as one of four principal suspects in the case.[1] He fled the United States and sought political asylum in Canada, but was arrested during a "routine check" of Chief Smallboy's camp near Hinton, Alberta (RE United States of America and Peltier 122). Despite protests of his innocence,[2] and a legal challenge by his lawyers that the United States had insufficient evidence to support an extradition,[3] Peltier was held for ten months under a warrant of apprehension in a Vancouver prison before being extradited to the United States to stand trial for first-degree murder in the deaths of the two agents.[4]

The trial of United States v. Leonard Peltier[5] began on March 25, 1977, in Fargo, North Dakota before the United States District Court with Judge Paul Benson presiding.[6] Peltier was charged with violation of three sections of Title 18 of the United States Criminal Code: "section 1111 murder, section 1114 murder of, among others, any officer or employee of the FBI, and section 2(a), [aiding and abetting], 'Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal'" (Peltier v. Henman 466). Judge Benson narrowed the proceedings to a trial investigating the deaths of the two agents and ruled that "evidence . . . be limited to the events of June 26, 1975" (Matthiessen 323).[7] Defense council conceded that the crime was "first-degree murder" rather than "a shooting that turned out to be fatal" and abandoned a "self-defense approach" as justification for Peltier's involvement (Matthiessen 321).[8] They acknowledged that the government did not have to "prove first-degree murder" but rather that they must show that "the defendant participate[d]" in the crime (324). The prosecution based its allegations of "premeditated murder" on "primarily circumstantial" evidence[9] and claimed the following statements as indisputable proof "that Peltier committed or aided and abetted the murders": 1) He was in the van the agents followed into the Jumping Bull Compound; 2) He had access to information that he was being followed by FBI agents; 3) He had reason to believe that the agents were looking for him rather than Jimmy Eagle because there was a warrant outstanding charging him with attempted murder; 4) He was seen by a witness to be standing down at the agents' cars; 5) He was seen with an AR-15, the weapon doctors concluded shot and killed the agents; 6) Peltier's weapon was linked ballistically to the murder weapon through a .223 casing that was found in the trunk of Coler's car; 7) Peltier was overheard discussing details of the murders on the evening of June 26, 1975; [and] 8) Peltier fled the scene when stopped by police months later in Oregon where he turned and fired on them and where they discovered Special Agent Coler's revolver bearing Peltier's thumbprint (United States v. Peltier [1978] 319-320). After twenty-five days of testimony and "six hours of deliberation," the jury returned with a guilty verdict on two counts of murder in the first degree.[10]

To read the court transcripts in the cases of the United States v. Leonard Peltier is to confront the “authorized force” of a colonial justice system and the “performative violence” through which it secures its authority (Derrida 925). Jacques Derrida, in “Force of Law: The ‘Mystical Foundation of Authority,’” argues that “there is no law without enforceability, and no applicability or enforceability of the law without force, whether this force be direct or indirect, physical or symbolic, exterior or interior, brutal or subtly discursive and hermeneutic, coercive or regulative . . .” (927). Subject to the law’s regulative force, prosecutors for the government portrayed Peltier as a cold-blooded killer who callously shot the two injured agents as they lay incapacitated beside their cars (United States v. Peltier [1978] 321); AIM members testified that Peltier was armed with the AR-15 murder weapon, and claimed that he made self-incriminating statements while in flight from the reservation with two of his accomplices (319); and Oregon state police verified his random outbursts of violence when stopped by state troopers during his flight to Canada which implied “consciousness of his guilt” and his intention to use deadly force to escape prosecution (320). With each statement by witnesses for the government, Peltier emerged “before the law”[11] as a militant extremist whose propensity for violent action threatened the body politic and whose irrational use of deadly force legitimated the government’s imposition of the full force of the law in its decision against him.

In the aftermath of his conviction on two counts of first-degree murder, Peltier attempted to appropriate the “differential character of force” that resides within the legal system in order to halt the “chronological juxtaposition . . . of details” (Derrida, “Before the Law” 195) and the logic of representation through which the judiciary deployed the law’s “rhetorical force” against him (Derrida, “Force of Law” 929). Court records document his numerous attempts to appeal the prosecution's case by stressing the largely circumstantial and inflammatory nature of the evidence that linked him to the crime scene (United States v. Peltier [1986] 773). An evidentiary hearing disclosed the anomaly of three witnesses for the prosecution who had been coerced into testifying by members of the FBI (Peltier v. Henman [1993] 473). And appeals processes indicate that on a number of occasions Peltier offered to stipulate to his involvement in the shoot-out between AIM members and FBI officials at the Jumping Bull compound and to explain his flight from the Pine Ridge reservation into Canada under fear of retaliation (474). Each of these attempts by Peltier's lawyers to alter the prosecution's case by illustrating how Peltier's guilt was instituted in advance through the authority of his conviction rather than illustrated in practice by reference to his encounter with the law was met with the relentless force of what Derrida identifies as the "singular" effect of the legal system's "law preserving violence" (Derrida 981).[12] In his final appeal before the United States Eighth Circuit Court, three appellate judges upheld Peltier's conviction and denied him access to a new trial. Despite requests for clemency by human rights organizations around the world, he remains incarcerated in the Leavenworth Federal Penitentiary with no possibility of release until 2041.[13]

Leonard Peltier and the Question of Justice

Peltier's conviction has been the subject of widespread public scrutiny by community activists, legal scholars, and academics, who have argued that the case represents, on the one hand, a conspiracy between the FBI and the United States government that contrived "to discredit the American Indian Movement" (Matthiessen 341),[14] an illustration of the "'neutralization' by the FBI" of "an AIM activist" (Vander

Wall 292, 291), an example of "the existence and fundamental injustice of a sublegal system in which criminal defendants are functionally guilty until proven innocent" (Hogan 903),[15] and, on the other hand, contrary to the preceding arguments, a series of "[legal] difficulties" that "are indicative of the strength and power of rhetorical exclusion" (Sanchez et al. 45).[16] In each of these accounts, the authors contend that Peltier is a victim of the American justice system not only because his imprisonment serves as a decisive turning point in the conflict between AIM and the FBI,[17] but also because Peltier's guilt discloses the political consequences of subordinate group claims for those who challenge the status quo (Sanchez et al. 28). None of these critiques,[18] however, explores the problem posed by Peltier's case of the relationship between law and justice. Such an omission discloses what Derrida describes as the "equivocal slippages between law (*droit*) and justice" (923), for as Derrida argues in distinguishing law from justice, "One obeys [laws] not because they are just but because they have authority" (939).

In this chapter, I suggest that the court case of the United States versus Leonard Peltier, his three failed appeals processes, and his numerous requests for clemency that have been denied by various American governments may be understood more generally as exemplifying what Derrida describes as a series of force relations that permit "the superstructures of law . . . to both hide and reflect the economic and political interests of the dominant forces of society" (941). Peltier's activism in the American Indian Movement emerged during a moment of flux in the United States when the liberal-democratic principles of colonial government were challenged on numerous fronts by a growing wave of American Indian political consciousness. His conviction for first-degree murder reverberated throughout the American Indian community and raised the question of how American Indian peoples were to imagine their political futures when the trial verdict seemed to consolidate the government's view that the American Indian Movement represented a militant response to government control rather than a legitimate form of community activism. I suggest that it is the uncertainty instilled by the court's incarceration of Leonard Peltier, which challenged the political aspirations of the movement, that impels Jeannette Armstrong's publication of *Slash*. One important critical approach to Armstrong's novel that I explore here concerns the question of how indigenous communities were to imagine their political futures when grass-roots organizations such as the American Indian Movement became suspect by the courts and when efforts to build community-based organizations were disrupted by internal politics.

I begin by providing a brief history of the rise of the American Indian Movement (AIM), its goals as a grass-roots, community-based organization, and its attempts to rethink political sovereignty through the discourses of the civil rights movement. In so doing, I undertake a provisional analysis of the achievements of AIM, and gesture to the need for an extensive account of the roles played by women activists in its formation. In a dissertation that analyzes gender relations as "irreducible signifying dimension[s]," gender dominance as "socially pervasive, . . . imbricated in political economy and in political culture," gender power as "travers[ing] . . . the gamut of institutions comprising civil society" and gender struggle as "pervas[ive] of everyday life . . . infus[ing] personal and collective identities" (Fraser 159), my focus on gender relations through the first-person perspective of Tommy, Armstrong's protagonist, explores relations of power so as to illustrate how the movement reproduced normative gender codings that disclose the limitations of the movement's organizing politics. A fuller account than the one I offer here of AIM's political practices in terms of its gender relations seems necessary, however, especially given the lack of self-consciousness about how gender assumptions inform social relations as demonstrated by the leadership of AIM, and in particular, by Russell Means, one of the founders of AIM who, in an interview with Peter Matthiessen about the role played by FBI informers, disparaged FBI informant Douglass Durham by stating, "Durham was a gofer, a *nothing*! He was like a woman, *worse* than a woman; we used to give him pocket money, send him out for coffee!" (124).[19]

Armstrong's novel also importantly suggests the need for a broader analysis of the problematic relation figured by women in the movement through her representation of the disappearance of Mardie (118), a social and political activist and caretaker of Tommy, and through the death of Tommy's wife Maeg (251), a character who works tirelessly to restore community practices (251). Armstrong's strategy of figuring these women characters as unrecoverable by the reader beyond their portrayal through Tommy's self-interested perspective has been theorized by Gayatri Spivak as representative of an epistemological impasse that discloses the "unquestioned ideology of imperialist axiomatics," which prevents the cultural critic from recovering the difference of the native speaking subject from the archive of the European literary tradition (267). Addressing the intersection of imperialism with gender relations, Spivak claims, "No perspective *critical* of imperialism can turn the Other into a self, because the project of imperialism has always already historically refracted what might have been the absolutely Other into a domesticated Other that consolidates the imperialist self" (272). Reformulating Spivak's insights so as to consider the "self-consolidating Other[ing]"

(273) in the production of a discourse of civil rights through AIM engenders a recognition of the domestication of indigenous women but does not produce these women as "subjects to and of their own historical making" (Emberley 4). Yet, rather than theorize this problematic in relation to "Native women" who, as Julia Emberley claims, have "served as a vessel of 'otherness,' intrigue, curiosity, and exotica to the depleting resources of a First Worldist subjectivity" (5), I suggest a somewhat different formulation of the problem, one that does not tie indigenous women to a bounded ideological economy, but rather undertakes academic work so as to address itself to the idea of feminism and gender politics in relation to aboriginal/indigenous women and to constructing cross-cultural affiliations between academic feminism and feminism as it is practiced by aboriginal/indigenous communities.[20] Literature, as Emberley's project also illustrates, represents an important site for this investigation.

My purpose, then, is to illustrate the importance of reading Armstrong's novel, *Slash*, within the social and political context that informs its production while also prioritizing its thematization of gender relations. Armstrong indicates, in an interview with Hartmut Lutz, that the book's focus on the development of a male character has proven challenging for feminist readers insofar as her exploration of male characterization does not enable a transparent reading of the novel's gender politics. In her reply to Lutz's prompt that "although the central character is male, the strength of the whole movement, then and today, and I think in the future, lies in the women" (18), Armstrong states:

> I'm glad you say that, because that has been a question in every workshop that I do by feminists . . . The question has been thrown at me, and I say, 'Well, I don't

> talk about it in this way!' I can talk about it in this way that it is a very feminist book, and it really works with, and talks about, female thinking and the empowerment of people through love, and compassion, and spirituality. And whether you want to call it female power, that's beside the point, . . . I think it's human at its best. (18)

For Armstrong, gender relations in the novel are inseparable from a broader conceptualization of the "political insights" and "philosophical world view" that generate "the 'rebirth'" or "'renewal'" of cultural practices that she explores (15-16). In thus integrating gender critique with an examination of institutions and political economy, Armstrong's novel envisions an analysis of cultural formations that begins with the premise that "every arena and level of social life is shot through with gender hierarchy and gender struggle" (Fraser 15). Her novel anticipates what Nancy Fraser calls for in an approach to feminist scholarship that is "simultaneously supple and powerful . . . that promote[s] our ability to think relationally and contextually, including frameworks that can connect various elements of the social totality, casting these elements not merely as 'different' from one another but as mutually interconnected" (15).

In prioritizing the novel's interconnections with the political activism that took place in aboriginal and indigenous communities, I hope also to foreground a context that addresses the problematic of reader identification in the text. Critics of *Slash* have noted the difficulty in teaching the novel, since it seems neither to conform to "an autobiographical, cross-cultural narrative that enables self-identification through an academic literary-critical position" (Jones 1), nor to a reading strategy that renders the text "readily assimilable to a western literary tradition" (Hodne and Hoy 68). The novel's resistance to easy identifications between the reader and its audience and its disruption of literary/critical conventions have prompted Manina Jones to argue that the text stages the problem of "activist aesthetics" so as "to teach that sites of alienation may carve out a transformative space of both conflict and contact that reconfigures the literary/political relation" (8). In an examination of the novel as both "produc[ing] and mitigat[ing] this perplexing nexus of judgement and action to make manifest the critic's arrival at interpretive 'logjams' and to suggest ways in which the practical forms of life in which interpretations are produced might be transformed," Jones suggests that "*Slash* is thus itself a highly ambivalent critical site from which to arbitrate questions about the relation between literary criticism, activism, and fiction" (3). For Jones, the novel also registers Armstrong's political stance of resisting "well-intentioned attempt[s] at cross-cultural inclusiveness" and refusing to acquiesce before literary criticism's "violent, depersonalized regulatory gaze" (Jones 2).

Certainly, Armstrong does argue for the autonomy of First Nations literatures and cultural history,[21] but *Slash* appears to be generated from a somewhat different concern, that is, from an interest in reconceptualizing political community, one that is irreducible to an identity politics agenda and attentive to social relations of gender. In this regard, the novel's "activist aesthetics" (to borrow Jones' term) participate in exploring forms of community activism similar in kind to those generated by AIM, but also critical of the movement's politics. Armstrong's novel thus articulates what Len Findlay calls for in a literary-critical position that can "always indigenize" by beginning from the premise that there is "no *hors-Indigene*, no geopolitical or psychic setting, no real or imagined *terra nullius* free from the satisfactions and unsettlements of Indigenous (pre)occupation"

(309). In reading *Slash* in relation to the political objectives of the American Indian Movement, by illustrating the novel's call for a return to a more complicated notion of political community, and by exploring how Leonard Peltier's *Prison Writings* addresses the question of social justice through literary activism, I hope to make clear that the novel indicts forms of political solidarity that do not enable conceptualizations of community relations independent of identity politics agendas and that fail to articulate the meaning of justice to political organization.

In claiming a connection between the chronicle of Leonard Peltier's incarceration and Jeannette Armstrong's novel, *Slash*, that is, between literature and political narratives, this chapter also asks the following question: how might literature address the cause of social justice? Such a question seems necessary given the objectives of progressive political movements that have sought to challenge the imposition of legislated relationships between aboriginal/indigenous peoples and the nation state. Often these movements are in the service of critiquing policies that reconfigure indigenous cultural practices and social behavior as criminal.[22] Theorists such as Robert Cover and Jacques Derrida have asserted a constitutive relationship between law and literature, but they have done so by distinguishing the degree of "material violence" engendered by both interpretive enterprises. In his influential essay "Violence and the Word," Cover argues that while the concrete violence of legal texts and the figurative violence of literary texts both occur within "institutional contexts designed to realize normative futures . . . through collective violence" (1606 note 15), literary interpretation differs from legal interpretation on the grounds that it facilitates the continuation of law not only as an "organized social practice of violence" (1602), but also as a "practice of political violence" (1606). Emphasizing what he describes as "a radical dichotomy between the social organization of law as power and the organization of law as meaning" (1602), Cover claims that legal interpretation takes place in "a field of pain and death" (1601). For Cover, this statement rings true in several social registers, and he writes:

> Legal interpretive acts signal and occasion the imposition of violence upon others: A judge articulates her understanding of a text, and as a result, somebody loses his freedom, his property, his children, even his life. Interpretations in law also constitute justifications for violence which has already occurred or which is about to occur. When interpreters have finished their work, they frequently leave behind victims whose lives have been torn apart by these organized, social practices of violence. Neither legal interpretation nor the violence it occasions may be properly understood apart from one another. (1601)

Cover's emphasis on the material force of judicial statements complicates our understanding of the cultural work of law and its connection to social relations, by explaining how legal interpretation works to secure a future vision of society through its authority as a repressive state apparatus and by obtaining social consensus for its judgements in ideological form. That is, legal interpretation, like literary interpretation, exerts force relations through access to the social imaginary.

Derrida, in "Before the Law," articulates a similar recognition of the ideological force of legal interpretation, but does so by expanding the register of social relations to encompass literary representations. Scrutinizing Kafka's short story, "Before the Law,"[23] Derrida claims that the position of the reading subject before literature represents a similar relation to the position of the subject before law because both relationships work at the level of the imaginary (186).[24] Derrida proposes this affinity based on the "ideological relationship" between law and literature raised by Kafka's short story in which the question of admittance to the law is posed as both a problem of "accessibility" and "decipherability" that situates law as ideology (197). Kafka, Derrida argues, theorizes law not as a thing "which appears to yield itself to be read," but as a site that "fuels desire for the origin and genealogical drive" in order to establish a "*relation* toward an impossible exhibition of a site and an event, of a taking-place where law originates as prohibition" (197). As prohibition, the law remains, according to Derrida, "essentially inaccessible even when it . . . presents or promises itself" (199). Far from finding the law "accessible at all times and to everyone" (196), as the man in the story believes it should be, the law inheres as unreadable since "the presence within it of a clear and graspable sense remains as hidden as its origin" (197). As Derrida argues, "He wants to see or touch the law, he wants to approach and 'enter' it," but because the man "does not know that the law is not to be seen or touched but deciphered" the law remains inaccessible to him (197). Thus, for Derrida, "the quest to reach the law, in order to stand before it, face to face and with respect, or to introduce oneself to it and into it, . . . becomes the impossible story of the impossible. The story of prohibition [Derrida claims] is a prohibited story" (200).

In defining "law as prohibition," Derrida does not speak of "moral, judicial, political, [or] natural law," but rather of what he terms the "law of laws" (192), that is, law as presence, as that "[which] remains concealed and invisible in each law [and] is thus presumably the law itself, that which makes laws of these laws, the being-law of these laws" (192). For Derrida, this hidden element presupposes not a source but an absence which renders access to the law as always "adjourned" thus producing the law before the subject as "prohibition" and as what is "prohibited." As Derrida argues, "[the law] forbids itself and contradicts itself by placing the man in its own contradiction: one cannot reach the law, and in order to have a *rapport* of respect with it, *one must not* have a rapport with the law, *one must interrupt the relation*. One must *enter into relation* only with the law's representatives" (204). This imaginary relation represents the key element in the subject's identification with and subjectification before the law: one does not have a relation with the law; one has a relation with the representatives of the law (204). But even more importantly, as Derrida claims, what is crucial about this relationship with law's representatives is that "this contradictory self-prohibition allows man the freedom of self-determination;" he is "before the law, but also outside of it," as "both a subject of the law and an outlaw . . . he decides to await a permission simultaneously given and deferred" (204).

The process of subjectification theorized by Derrida that produces this imaginary relationship between subjects and the law appears to risk reifying law's authority and its prohibition as omnipotent. But, as Derrida argues, "the doorkeeper does not bar the way by force" (203). Rather, it is "his discourse . . . that operates at the limit, not to prohibit directly, but to interrupt and defer the passage, to withhold the pass" (203). If the man's compliance with the law arises, then, through discourse, it is at the level of discursive resistance or deconstruction that one begins to intervene and disrupt law's inexorable process. For Derrida, "it is this deconstructible structure of law . . . of justice as *droit*, that also insures the possibility of deconstruction" (945), a deconstructive practice that Derrida defines as:

> destabilizing, complicating, or bringing out the paradoxes of values like those of the proper and of property in all their registers, of the subject, and so of the responsible subject, of the subject of law (*droit*) and the subject of morality, of the juridical or moral person, of intentionality, etc., and of all that follows from these. . . . Such a deconstructive line of questioning is through and through a problematization of law and justice. A problematization of the foundations of law, morality and politics. (931)

It follows from Derrida's articulation of deconstruction as justice that one pursues the question of justice by infusing the demands of law for "singularity, unity, and identity" with "the undecidable, the incommensurable or the incalculable" or with "singularity, difference and heterogeneity" (929). For in such a deconstructive practice, Derrida claims, "there is authority–and so a legitimate force in the questioning form" (931).

But, as J. M. Balkan argues in "Being Just with Deconstruction," Derrida's assertion of "deconstruction as justice," in its emphasis on a "deconstructuctive line of questioning" as a "problematization of law and justice," risks eroding the critical ground through which legal and social theory attempts to achieve "rectification and amelioration" so as to transform potential injustices within legal practice. Balkan states that the insights of Derrida's conceptual scheme, of justice as deconstruction, remain impractical at best, since he contends that "most people have assumed that deconstruction does show the incoherence or internal inconsistency of conceptual schemes, effaces semantic distinctions, or demonstrates the undecidability of competing interpretations" (397). For Balkan, this approach to deconstructive practice "can be of no use to a critical legal or social theory" because it fails to consider "how conceptual oppositions are related to the contexts that give them force and meaning" (398). Instead of effacing "the values and judgements of the individual deconstructor and the directions she chooses to investigate" (399), Balkan proposes that deconstructive analysis foreground the deconstructor's "moral and political commitments" so that "each deconstructive argument may be understood in terms of its partiality and selectivity, . . . framed and limited both by what it chooses to deconstruct and what it chooses to leave unexamined, . . . [and] [delimited] by where it begins its critique and where it ends its analysis" (400). In Balkan's view, such an analysis may be achieved by articulating deconstructive practice as a series of "nested opposition[s]" within which the premise of deconstructive argument "becomes the careful and patient analysis of the grounds of similarity and difference between conceptual oppositions in shifting historical and practical contexts of judgment" (397, 398).

Providing for "a justice as yet unrealized in law," Balkan observes, does not obligate us to settle for "imperfect laws, conventions and cultural norms from which [justice] must always be distinguished" (401). Instead, Balkan suggests that we begin with the premise that "human law, culture, and convention are never perfectly just, but justice needs human law, culture and convention to be articulated and enforced" (401). From this realization, Balkan argues, we may aspire to "justice as a transcendental value lodged in the human heart, an incurable longing that demands articulation in human culture but is never satisfied by its products" (403). Importantly, from Balkan's perspective, we must, in seeking to achieve social justice, recognize the distinction between "human values like justice" and "their articulation in human law, culture and convention" (402) so as to recognize that the "pursuit of justice is neverending" (403).

The question, then, of pursuing justice as a human ideal is irreducible to legal practice, yet it may be pursued by conceptualizing how human culture articulates practices of social justice. Literature, I would suggest, expresses a necessary site of cultural production where this goal may be deciphered. To provide a critical ground from which to examine the need for social justice as it is expressed in Peltier's memoir and to situate a context within which to recognize Armstrong's critique of the social processes of gender formation, I take up a discussion of the rise of AIM and its goals as a political organization committed to social change. My purpose is to present a broader historical context for locating Armstrong's analysis of gender relations and to illuminate through literary acts such as *Slash* and *Prison Writings* why gender identity is important to justice as a social goal.

Indian Activism and the American Indian Movement

Unlike other reservation-based collectives, such as the National Congress of American Indians and the National Tribal Chairman's Association, the American Indian Movement took shape as an organization composed primarily of members from "urban areas, non-reservation rural areas, [and] reservations where tradition and ethnicity were not emphasized" (Stotik et al. 56). Peter Matthiessen claims that the movement came into being "as a direct result of the termination and relocation policies" which "displaced thousands of Native Americans into American cities" (35). Its founding members, Dennis Banks, George Mitchell, and Vernon and Clyde Bellecourt, were brought together in 1968 to stem the tide of police violence against urban Indians and to respond to the desperate social conditions that were forcing urban Indians into conflicts with the law. Dennis Banks and Clyde Bellecourt actually met while incarcerated in prison. They came together in Minneapolis to hold the first meeting of the new movement in July 1968 with 250 participants (Smith and Warrior 127). Although their primary goals became education and eliciting support from the public by staging demonstrations so as to seek enforcement of treaties between the United States and Indian communities (Hogan 904), their early objectives were driven by concern for urban Indians and police harassment. As Paul Chaat Smith and Robert Warrior observe:

> One of the first projects of the new group was the AIM Patrol. AIM raised money to equip cars with two-way radios, cameras, and tape recorders so they could monitor arrests by the police department. When the AIM Patrol heard police dispatched to certain bars or street corners, officers would be met by Indians in red jackets carefully observing their actions. (128)

If, in their early work, they did not articulate an ambitious political program at the level of government engagement and recogntion, then their support of the local community did, according to Smith and Warrior, accomplish a sense of the "rootedness that AIM enjoyed in a specific place" (132). They state that:

> The AIM office was a place to stop by if you needed a ride, an emergency loan, leads on jobs, or a place to live. Social services and political action were integrated. If you had been evicted and needed a lawyer, Clyde or Dennis could probably help, and if your nephew faced the humiliation of acting in what you considered a soul-scarring piece of racist garbage, they would get people together at dawn to drive over and talk some sense into a school principal. (132)

The reference, here, is to a prior description of the first political action undertaken by Clyde Bellecourt who, upon learning that a member's nephew had been asked to participate in a Thanksgiving play in which his character was named "Chief Smokum Pot" and given lines that consisted of "Ugh," called the superintendent of schools, "posing as a Minneapolis drama teacher interested in seeing the play 'in order to get some new ideas,'" before showing up at the school to speak to the principal and teacher (132). Smith and Warrior note that "The expedition proved successful, and the racist Thanksgiving play was canceled" (132).

This insight into the early activism of the movement is particularly compelling for restoring a sense of dignity and self-worth to the people who initiated the Red Power struggle. Little of this sense of self-respect is rendered visible by polemical tracts such as those mentioned above, which explore the injustices of the Peltier conviction. Yet, these political acts are crucial to understanding why so many people became invested in AIM. As Smith and Warrior argue, "although most in Indian country would agree AIM had a profound impact on the lives of Indian communities in the 1970s, few could agree on what that impact was" (274). Smith and Warrior's study, which includes interviews, media coverage, and archival research that situates the American Indian community at the center of a constellation of social causes and political effects, undertakes not only an exemplary cultural materialist methodology that explores the political, social, and cultural features of American Indian activism in its complexities, but also provides a significant counter narrative for theorizing decolonization struggles. Their vision of AIM activists restoring "a *raison d'être* [to urban Indians], an opportunity to be important to their own communities" (277) differs substantially from the high postcolonial norm theorized by Frantz Fanon in his conceptualization of revolutionary struggle.

In Fanon's theory of the encounter between the native and the settler, the colonized man is “an envious man” who returns a “look of lust, a look of envy . . . And this the settler knows very well; when their glances meet he ascertains bitterly, always on the defensive, ‘They want to take our place.’ It is true, for there is no native who does not dream at least once a day of setting himself up in the settler’s place” (39). For Fanon, the desire of the native for the colonial world produces its status as a “Manichean economy” in which the native’s desire represents “not only the absence of values, but also the negation of values” (41). The native resonates in this binary opposition as “the corrosive element, destroying all that comes near him; he is the deforming element, disfiguring all that has to do with beauty or morality; he is the depository of maleficent power, the unconscious and irretrievable instrument of blind force” (41). In so conceiving of the revolutionary native as a destructive, “corrosive,” and cleansing force, Fanon’s vision of revolutionary violence resembles Benjamin’s conceptualization of “divine violence” as it exists in “revolutionary violence,” which Benjamin defines as “the highest manifestation of unalloyed violence” whose “expiatory power . . . is not visible to men” (300). The force of this “divine violence,” as Derrida explains it, derives from its existence beyond “the determinant decision, . . . that permits us to know or to recognize such a pure and revolutionary violence *as such*,” because:

> divine violence, which is the most just, the most historic, the most revolutionary, the most decidable or the most deciding does not lend itself to any human determination, to any knowledge or decidable ‘certainty’ on our part. It is never known in itself, ‘as such,’ but only in its ‘effects,’ and its effects are ‘incomparable,’ they do not lend themselves to any conceptual generalization. (“Force of Law” 1033)

My interest in the question of revolutionary violence as it is posed by Fanon, Benjamin, and Derrida stems from an initial desire to consider the uneven accomplishments of AIM as a form of "revolutionary violence" whose effects exceed and remain unaccounted for within our historical moment. The objectives of AIM's local work to alter in some small way the social conditions of urban Indian people suggest that revolutionary struggles need not abandon conditions of identity formation that have to do with dignity and self-worth, a form of revolutionary struggle omitted from Fanon's abstraction of it. Rather, the example of AIM's interventions articulates that these things are worth striving for even if one cannot claim the movement as revolutionary in effect, that is to say, even when the struggles of indigenous peoples in the United States fail to achieve the comparative postcolonial status of revolutionary struggles globally.

While the movement endorsed the concept of a national identity of pan-tribalism, or loyalty to race over loyalty to a particular tribe, it also came to emphasize the gap between "Native American and white philosophies," and placed special emphasis on "Native American spirituality, pride in being Native American, unity with the natural world, and militance" (Stotik et al. 57). According to Jeffrey Stotik, Thomas Shriver, and Sherry Cable, "AIM defined 'Indianness' not as a racial issue, but as a way of living and viewing the world" (57).

The movement had its greatest appeal with grass roots community activists who were frustrated with the lack of concrete social organizations within which to challenge prejudice and discrimination against American Indian peoples. Karren Baird-Olson notes, in "Reflections of an AIM Activist," that AIM afforded an alternative organizational structure that "provided courageous role models; refuted racist myths and stereotypes about Indian people; created a national network of visible activists; initiated major institutional changes; enforced personal and institutional respect; and renewed hope for the future" (244). While Baird-Olson applauds the strategic value of the organization's informal structure–volunteerism was emphasized rather than compulsory attendance–critics such as Vine Deloria Jr. stress its political significance through the movement's adoption of a national agenda that foregrounded the treaty rights of American Indian peoples. Deloria observes in *Behind the Trail of Broken Treaties*:

> the major issue of recent Indian activism began with a demand for land restoration, and in this sense it was a countermovement by Indians against the interpretation of their treaties as real-estate contracts. Claims of the universal validity of the Fort Laramie Treaty of 1868 and its mysterious clause which empowered Indian activists to claim abandoned light-houses, and surplus federal property was only the initial phase of a more fundamental movement to reclaim national status for tribes and to force a reconsideration of the treaties in light of the political implications which they have today. (114)

Insofar as the movement retained a focus on treaty violations and agitated for the return of tribal lands, Deloria claims, activists "retained the basis for establishing a clearer definition of the federal relationship" (39). But, according to Deloria, when the movement "viewed the treaties as an excuse for protests," Indian activists eroded the legal basis on which the government negotiated with the movement. This erosion, Deloria contends, challenged previously held tribal-government relationships and produced volatile conditions on the reserves. Tribal governments that were instituted by the *Indian Reorganization Act*[25] found their political authority undermined by traditional Indians who were inspired by urban Indian activists to reclaim their cultural heritage and tribal identity. Tribal chairmen, whom the government acknowledged as the legitimate authority within Native American communities, and the large group of Indian professionals who were operating the programs of the tribes, were caught between the forces of change embodied in traditional peoples and returning Indians who advocated militant organization and cultural renewal (40). This charged political environment of an eroding middle ground ideology and the desire for radical change by community members incited several confrontations between American Indian activists and FBI officials, the most public of which occurred on the Pine Ridge Indian Reserve through the 72–day occupation of Wounded Knee.

AIM's participation in this event and the conflict itself represent one of the most complicated episodes in the Red Power Movement. The occupation coalesced in terms of political, sociological, and cultural factors: political crises and unpopular tribal chairmen who openly practiced nepotism, financial deception, and intimidation (Smith and Warrior 195-96); social conditions at Pine Ridge where most of the 15,000 people who lived on the second largest reservation in the U.S. "were unemployed and impoverished," and where "measures of quality of life such as life expectancy, income, disease rate, suicide rate, and housing were atrocious" (Stotik et al. 60); and cultural isolation where traditional chiefs who held "tradition and ceremony, wisdom and ancient knowledge" appealed to the "bold activism" of "the young men of AIM" (Smith and Warrior 199). As Smith and Warrior explain:

> Perhaps the AIMs–this is what the old people called them, the AIMs–knew little of Oglala ceremonial life, but they held other secrets of immense value, exotic

> knowledge those who spent their lives on Pine Ridge could never obtain. They knew the home telephone numbers of New York lawyers, and understood the rituals of press cycles. They knew that television networks had bureaus in Chicago, and they knew ways journalists might be persuaded to charter planes to South Dakota. Russell Means and Dennis Banks knew how to bring the world to Pine Ridge. (200)

During the occupation, AIM leader Russell Means declared Pine Ridge "an independent Oglala Sioux nation" according to the Treaty of 1868, which "defined Sioux territory rights and guaranteed that the Black Hills would remain Sioux territory" (Stotik et al. 60). Stotik, Shriver, and Cable remark that "thousands of rounds of gunfire were exchanged each day," and "two hundred activists and three hundred FBI agents and U.S. Marshalls were involved in the siege" (60). In the aftermath that followed from a "negotiated agreement [by] the government [to] meet with chiefs and medicine men to discuss the treaty of 1968," AIM found itself in serious legal trouble, with "most AIM leaders . . . in jail, underground, or dead" and "numerous trials . . . [that] dragged on for months or years, virtually halting AIM's organizing efforts" (61). Critical opinion remains divided about the effects of AIM's involvement at Pine Ridge, as Smith and Warrior note: "Critics would accuse AIM of opportunism, using one reservation's troubles to make headlines for themselves. They suggested AIM took advantage of unsophisticated Indians who didn't know any better. Instead, the careful, deliberate process that ended in a church basement . . . more accurately should be read as the Oglala people choosing to invite the American Indian Movement into Pine Ridge" (200).

AIM's momentum, however, appeared to be diminishing, not only because of its inability "to generate and sustain a collective identity" (Stotik et al. 63), but also as a result of its failure "to make a compelling case for its own vision of change" (Smith and Warrior 277). Quoting from a speech by Jerry Wilkinson, National Indian Youth Council Executive Director, Smith and Warrior contend that AIM's two main weaknesses were that "'It did not create a tradition of people relentlessly, ceaselessly, and uncompromisingly pursuing a long-range goal,'" nor did it articulate "an intellectual base" from which to "build strength and consensus in the Indian community [so as to] achieve the capacity to critically assess ideas and people [and thus] determine what to do next" (Smith and Warrior 275-276).[26] The movement, according to Smith and Warrior, appeared to lack an intellectual base. They argue, "There has been surprisingly little public and private interest in gaining a more careful measure of the movement's success and failure. The movement failed dismally in transmitting to later activists the lessons of its campaign of popular struggle" (274). This conclusion about the movement's effects seems at odds with the wide-ranging impact that AIM had in indigenous communities and suggests a problem of methodology rather than of evidence. In considering an array of material about the movement, the authors overlook the field of literary production, yet this represents an important realm of cultural practice, one that might even be said to have been fostered by the influence of AIM. In this regard, Jeannette Armstrong's novel represents an important site for an examination of the politics of identification generated by the movement and the problem of its call for social justice.[27]

Slash

In *Slash*, Armstrong dramatizes the conflict of a young man attempting to negotiate his entry into politically empowering discourses during a time of transition within his community and explores his failure to arrive at a coherent set of values that enable him to feel confident about the political positions that circulate and promise self-empowerment for him. On the one hand, Tommy Kelasket sympathizes with the reluctance of Pra-cwa and his father to endorse the changes legislated to voting rights for community members as a loss of community solidarity (18); on the other, he is troubled by the isolationist practices of his father and other tribal members who live apart from the day-to-day influences of and racist interactions with the white community that other members of the band, especially the children, have to endure. When his father disparages the offer by the federal government to "get new houses built with Indian Band money," Tommy shares his father and Pra-cwa's view with his friend Jimmy that "it wasn't good to take hand-outs like that even if it were [sic] the Band's" (25). To Tommy's surprise, however, Jimmy is outraged by his family's response and accuses Tommy's family of acting "stupid and old-fashioned" (26).

For Jimmy the conflict generated by their different value systems is not one framed reductively in terms of traditional versus modern Indians, although he expresses his uncertainty in this manner when he responds angrily to Tommy, "Nobody needs to talk Indian anymore. My Dad and them are smart. They are up-to-date" (26). Rather, Armstrong illustrates how Jimmy's anger emerges from his recognition of the constitutive effects of economic impoverishment and racism that exist for himself and his family. His desire for the material wealth of the non-Native community emerges from his economic and social location "in the village" where he is beset by racist encounters with the non-Native community rather than "up on the hill" like Tommy, who has access to a "special Uncle Joe" who can teach him his language, instruct him on the use of medicinal plants for curing sickness, and enable him to participate in the drumming and storytelling ceremonies (22). Jimmy's family lacks recourse to an alternative value system embedded in cultural practices within which he can escape from the social and cultural poverty of his family and from his feelings of helplessness and culpability in the face of them (44).

Through an exchange between Tommy and his friend, Jimmy, Armstrong demonstrates the fragmentation of community consensus because of social-cultural inequities that exist among community members. Thus, Jimmy reacts with dismay after learning that Tommy—far from feeling confident about the isolationist practices of his family—actually desires his opinion and approval. Tommy lectures Jimmy about changes in community consensus by stating, "Why is everybody else all of a sudden saying things are no good, that we are not happy? Seems to me the ones that ain't happy is the people who try too hard to get all this like new clothes and cars and want to be in town all the time" (44). He asks for his friend's affirmation of his political position, but instead of agreeing with Tommy, Jimmy confesses to his own sense of ambivalence and to a growing sense of disidentification with his community. He replies:

> Shit, I don't know . . . All I know is, I like to feel good. I feel good when white friends of mine talk and joke with me as if I were like them. They only do that if I wear smart pants and shoes and have money to play pool with. I don't like them to think I'm like the rest of the Indians. . . . Shit, my Dad works but he gets drunk and spends all this money. . . . I know how you guys live up there. That's okay, because your folks don't drink and they work and all the kids in your family do

> stuff, but down here, it ain't like that. Somethings got to be done down here. (44-45)

The claims that Armstrong situates through Jimmy's perspective for the need for social and cultural transformation illustrate her sympathy with community members who grow up apart from inherited cultural practices yet who desire a sense of community identification. Rather than distinguish Jimmy's feelings of isolation as illegitimate because they call for acculturation rather than autonomy, Armstrong illuminates how both positions reflect a broader sense of community isolation rather than solidarity so as to articulate the need for radical reconstruction of social relations within the community.

For from Tommy's perspective, Armstrong demonstrates how Jimmy's uncertainty about the community's political future extends rather than contradicts the opinions of "Old Pra-cwa," who not only acts as the "headman to all the people who still talked Indian," but also articulates the belief that the Indian community must retain its autonomy from an infusion of white influences through the continuation of its cultural practices (19). Opposing the desire of the elected Band Chief to negotiate with government initiatives for modernizing the reserve, even though these programmes approach the ridiculous,[28] Pra-cwa voices his disillusionment with these changes as a judgement of the next generation and expresses his growing sense of disconnection from acculturated members of the community (48). When he shares his frustration with Tommy for the young people who refused "to work their land anymore because they didn't know how," who "leased their land to white ranchers so they could get money once a year," and who took to "drinking . . . [instead of] wanting to work their own land" (41), he not only elicits Tommy's sympathy for a vanishing way of life but also engenders in Tommy a sense of disidentification from him. Tommy remarks, "He looked so sad and defeated when he talked. I felt that he was in pain" (48). Pra-cwa's confession to Tommy, "I guess our thinking is so different, we can't even understand one another anymore," exacerbates Tommy's growing detachment from the elders in the community who initially provided a strong sense of identity and community stability for him. By shuttling Tommy's sympathy between his friend whose ambitions for material wealth he identifies with and his elders whose cultural aspirations he respects, Armstrong articulates her recognition that neither set of values can sustain a political position from which to agitate for social change and that both contribute to the intergenerational conflict that increasingly expresses dissension within the community and the need for cultural transformation.

Indeed, the question of political transformation and community conflict confuses Tommy in spite of his attempts to understand or theorize what these changes mean. He is beset by uncertainty, and publicizes his confusion in the most ordinary, predictable ways by experimenting with drugs and alcohol (49, 56), quitting school (52), and attending demonstrations (54). He appropriates his friend's sense of outrage for divisive community politics and follows him through a succession of protests and "thing[s] hipp[y]" in order to draw attention to the validity of their growing sense of cultural and intergenerational isolation as an effect of the traditional community's disregard for the social situation of members from the village. His behaviour, however, is met with incomprehension from his Uncle Joe (56) and disapproval by his father (52). He acts out his frustration by participating in increasingly riskier social behavior until "everything [comes] crashing around [him]," and he is involved in a drug trade that turns violent in which he not only stabs his assailant, earning himself the nickname "Slash" (59), but also "put[s] ten cops on their backs" (57-58). Tommy recovers from his injuries to find himself on the brink of despair in a brutalizing prison system, where the "days are hard and the nights long" and where the isolation and humiliation engender feelings of "hurt, anger and shame . . . like a pile of maggots gnawing away" (64-65). Armstrong's description of the mind-numbing despair and helpless rage Tommy experiences through the systemic violence of prison life articulates her recognition that what is truly brutalizing about a racist society is its suspension of people from the course of history to the singularity of prison existence where they are forced to "protect . . . small freedoms" or get "swept away" (66).

Even after he is free, subsequent to serving "eighteen months" for assault, which he claims initially as "self-defense" (63), Tommy joins the American Indian Movement, but wanders from protest to protest trying to fill a void that he expresses to himself as "something missing" in the movement (82, 108). As Margery Fee notes, in "Upsetting Fake Ideas," "[for Tommy], it scarcely matters which roadblock, which occupation, which march" (171). Yet, the momentum of these events weighs on Tommy's consciousness, merging together the violence of the protests by government officials with the seemingly senseless acts of violence by AIM members. After Tommy travels to Alberta to support a chief whose camp in a "wilderness area" is "being harassed by federal and provincial officials" (89),[29] he attaches himself to a group of activists who sustain themselves by "stealing food" which members justify by claiming that they are "fighting a war" (90). He then joins the "Trail of Broken Treaties Caravan," where members demonstrate their frustration with Bureau of Indian Affairs indifference and government by destroying the Bureau of Indian Affairs offices in Washington (93, 101).

In a pivotal scene during the occupation of the Bureau of Indian Affairs buildings, Tommy acts out an internalized system of gender politics when he divests himself of a relationship he has formed with a woman named Elise in order to pursue Mardi, the activist who visited him in hospital and in prison (58, 67) and who initiates his interest in the Red Power Movement (71). He responds apathetically to Mardie's rejection of his offer to return to the reserve to "settle down" (103), showing no inclination to pursue or persuade her to follow him even though she is the means to his fantasy life about returning to the reserve (104). Tommy's socialization in the movement becomes so acclimatized to acts of violence and violation that when he and other members of AIM are beaten senseless by police after leaving the Pine Ridge occupation he remarks only, "They beat the shit out of us" (118). He continues to travel with AIM and to encounter communities whose socio-economic conditions range from poor to desperate (90-91), yet he fails to grasp the complexity of Indian peoples' social situation as indicated when he remarks about a community which decides to accommodate Bureau of Indian Affairs demands, "I still couldn't understand the reasons for that attitude" (118). Through Tommy's growing expectation and desire for physical confrontation,[30] and his inability to grasp the political dilemmas faced by diverse communities, Armstrong critiques the movement for its lack of political vision and for failing to establish a coherent set of values through which members could learn from and apply their experiences of political activism.

When Tommy chooses to leave the movement and return home, he does so with the same lack of consciousness for its priorities and objectives as when he joined, even though he states at one time that he became active to make a difference in his home community. He declares to Elise during the Trail of Broken Treaties, "That's why I'm here, I guess. To learn and maybe somehow start something at home" (96). His departure, however, is driven by his failure to recognize the goals of political activism, this time, through a sense of disidentification with AIM's goals. He states:

> I sat there that night and listened to the talks and then later to the songs. As evening settled over the hills and the night birds called to each other over the voices of the people, I felt a terrible pity for us. I thought of how we were a bunch of young kids, trying desperately to be Indian in the old ways we knew how. We wore beads and an eagle feather and sang drum songs, and shared our food and our common dream of being the warriors to free the people from the hurts of two hundred years. We wanted to fight somebody to right the wrongs. We wanted to be worthwhile. . . . None of us really understood what we were fighting for or against. (184)

Although Tommy explains his attraction to AIM as engendered by a desire to avoid feeling "forever ashamed" of being Indian, he justifies his separation from the movement as emerging from a recognition that "something had been missing . . . something was missing" (185). Armstrong's thematization of absence as "something missing" from the movement that drives Tommy to abandon AIM is resolved through Tommy's recognition that all along the movement lacked an ethical centre from which to organize and incite its political activities. Tommy returns to his community after meeting an educator who encourages him to take responsibility for his actions by behaving proactively and unselfishly on behalf of other people. He advises, "There comes a point when you got to start giving help yourself instead of relying on people to lean on. You got to start to be a support for others. Go home and be what you are supposed to be. A good strong Indian that don't tear people down but builds them up" (205).

The novel ends with Tommy working in support of his family when his father has a heart attack (207) and after he rediscovers his connections with Pra-cwa through the teachings that enable him to recognize that Indian rights "come from the Creator" (209). Yet, these insights fail to sustain him as he continues to be riddled with doubt, resentment, and despair that the significance of Indian rights might at any moment lead to "dark days ahead" and that "our real defeat could be just around the corner" (248). Rather than stage Tommy's self-doubt as yet another manifestation of the failure of AIM identity politics, Armstrong illustrates how the death of his wife Maeg serves as the sacrifice through which he is restored to the community. That Maeg is killed while returning from a potlatch indicates Armstrong's critique of the gender politics of the movement, for not only does Maeg serve as the means for Tommy's regeneration of community affiliations by taking the place of Mardi[31] in Tommy's fantasy of homecoming, but she also secures his futurity through the presence of their son (251). By concluding the novel on such a despairing note, Armstrong indicts the gender politics of the movement as they are represented from Tommy's perspective. For throughout the novel, Tommy refers to women activists as "chick[s]" (58, 122, 224), exposes how he and the "other guys" "got pretty arrogant" in the way they treated women (122), and comments, in a routine manner, on the "usual girls with thick mascara, tight jeans and cheap, flashy blouses" available through the bar scene (57). In so doing, Armstrong articulates, at the level of the imaginary, criticism for a system of socials relations that occurred at the political level.

In an extension of Armstrong's critique of gender politics from the realm of social relations, Karren Baird-Olsen admits to the lack of acceptance she has received by indigenous men for becoming a strong woman through her experience with AIM, and observes:

> Considering the experiences of the AIM women I know, I believe we have suffered even greater loneliness than the average older woman. . . . I have come to realize . . . that I, like all of the early AIM women, am not average. We are exceptional women; we are trail blazers. But nearly all of us have paid dearly for that, not only in terms of general social acceptance but also in terms of finding supportive and lasting personal companionship. (248)

Baird-Olsen's critique hints at broader systemic issues related to the gender politics of AIM and to their treatment of women who were active in the movement. I have proposed that Armstrong's text draws attention to the movement's language and to the need for recognition and respect due to the women who participated and sacrificed so much for the movement, but a further line of critique would situate Baird-Olsen's insights within an analysis of the framing narrative of the negotiations between the United States government and AIM members to illuminate how recurrent references to gender relations conceived, legitimated, and maintained political power so as to exploit women. The contours of such an investigation are suggested by Armstrong's text and signal a critique of movements for social justice that fail to account for the commitments and contributions of women.

Prison Writings

I have been arguing that Armstrong's novel explores the gender politics of AIM so as to illustrate the failure of politically empowering discourses to engender a positive self-identity and sustainable community values for her protagonist, Tommy Kelasket. As a text that examines political history to explore how AIM's politics have been enacted on the field of gender identity formation, Leonard Peltier's memoir, *Prison Writings*, both complements and extends Armstrong's critique of Tommy's transformation within political discourse by illuminating how prison life disavows and deforms the incarcerated subject. With its publication in 1999, Peltier's memoir challenges and interrupts a system of constitutive legal representation that began with his detention in Canada on suspicion of first-degree murder and concluded with his incarceration at Leavenworth Federal Penitentiary as an inmate serving two consecutive life sentences. The memoir addresses conventional narratives that circulate about his criminal past—his flight to Canada under fear of retaliation from the United States government and Federal Bureau of Investigation officials following his participation in the standoff at Pine Ridge (141), his apprehension and extradition from Canada through the alleged collusion between the Canadian and U.S. governments in their reliance on "false" affidavits (142), and his conviction on two counts of first-degree murder before a predisposed 8th Circuit Judge (159). It also troubles settled accounts of the law's aspirations to social justice, by narrowing the interpretive threshold between the material violence of legal texts that authorize legal behaviour and by expanding the interpretive register of literary texts that disclose the deformation of the subject through the contemporary prison system. Peltier's memoir thus asserts a constitutive relationship between legal and literary interpretation that problematizes what

Robert Cover describes as the homologous integration of "role, deed, and word" through which the legal institution transforms subjective understandings of "lawful" interpretations into legal renderings of normative society (1619). Disabusing his readers of any assumptions they may hold about the repressive force of incarceration, Peltier's text articulates a demand for social justice through its illumination of the distorting effects of prison life and by articulating its deformation of himself as an incarcerated subject.

Composed of seven sections of essays that range from a description of his daily experiences as an inmate in part i to a consideration of his early life and political activism in parts ii to iv to a discussion of his role at Pine Ridge and subsequent incarceration at Leavenworth in parts v to vii, Peltier's memoir blends prose narratives with photographs, poetry, and artwork to create an aesthetically complex text that resists easy generic identification yet asserts the constitutive effects of confinement. Photographs depict his enforced separation (1, 41, 59); poems express his stark recognition that imprisonment remains a "terrifying condition" (33); and prose narratives reveal his painful self-effacement (9). Even as the memoir reveals a subjectivity enumerated through the consequences of lost community and mind-numbing isolation, it yields an individual caught by an unalterable judicial system that refuses to hear his claims. Both voices register the triumph of the legal process in its eradication and reconstitution of the "normative" subject, yet neither voice submits to the inexorable outcome that his physical violation is designed to produce. Peltier confesses neither to his guilt nor to his innocence but rather to the mundane routine and overarching loneliness of prison life. He writes:

> I miss the simplest things of ordinary life–having dinner with friends, taking

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> walks in the woods. I miss gardening. I miss children's laughter. I miss dogs barking. I miss the feel of rain on my face. I miss babies. I miss the sounds of birds singing and of women laughing. I miss winter and summer and spring and fall. Yes, I miss my freedom. So would you. (29)

Peltier's mode of direct address to his readers challenges them to empathize with his devastating descriptions of tedious prison life, which he characterizes as both predictable and uncertain, when he states, "From time to time they move you around from one cell to another, and that's always a big deal in your life. Your cell is just about all you've got, your only refuge. Like an animal's cage, it's your home . . ." (6). His mistreatment, however, has not softened nor altered the recognition that his incarceration is politically motivated. Confronting the reader with reminders of how his cultural heritage has been politically and legally transformed, he states, "*My crime's being an Indian. What's yours?*" (65). Moving between assertions of self-sacrifice on behalf of his people and expressions of bitterness that his imprisonment continues, Peltier's narrative discloses a subjectivity that is neither simply an abject victim of government injustice nor an angry individual wrongly accused.

Instead, his memoir both engages and disavows the very question that his conviction and incarceration are designed to resolve. In a passage describing his activities at Pine Ridge, he states: "We weren't there to attack or kill or intimidate anybody . . . We were spirit-warriors, not mercenaries. We wanted peace, not conflict. The violence came from the other side, not from us. It was entirely unprovoked and obviously long planned. It also obviously went very wrong" (113). These assertions of spiritual and cultural motivation that explain his presence at Pine Ridge suggest an enduring will that resists the deliberate infliction of pain represented by a prison system that is intended to destroy what Robert Cover expresses as the "normative world of the victim" (1603). Rather than submit to the despair of his situation, however, Peltier reminds readers of his continuing and fundamental humanity. In the closing section of the text, he asserts his belief in the ideals of "peace, justice, and equality for all people" (202), and he explains how, in spite of his incarceration, he encourages inmates to recover their faith and participate in their cultural practices. These acts, undertaken to establish alternative human relationships to the ones that have been imposed on him, illuminate Peltier's recognition that justice cannot be mistaken for revenge as it is normalized by the prison system; it must be sought after, as J. M. Balkan suggests, as an "insatiable hunger . . . lodged in the human heart. . . . [A]n urge that can never be fully articulated by the positive norms of human culture" (402). Peltier's memoir, in its longing for a normal life and its critique of the deformation of human culture, insists that its readers pursue a course of justice that recognizes its failure in concrete institutions but aspires to its achievement as an essential human value.

What does literature offer to the quest for social justice? As illustrated by his memoir, Peltier's public life began with his aspirations to make a difference for his people by becoming a member of AIM. Rather than enable his contribution to human society, however, Peltier's incarceration has prevented him from achieving a normal life, a common good. His memoir attests to this longing and to the need for a recognition that human culture as it is represented by legal practice cannot be the measure of human values. Releasing Peltier, as his narrative suggests, provides one means to expand our moral and human capacities.

Endnotes

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[1] Police pursued Leonard Peltier, Robert Robideau, Darelle Butler, and James Theodore Eagle as suspects in the case, all of whom were charged with the murders of the F.B.I. agents. No one has ever been charged with the murder of Joe Stuntz, a Pine Ridge resident who was also killed in the shoot out (Sanchez et al. 40-41).

[2] Peltier's arrest on February 6, 1976 issued from an outstanding warrant of apprehension authorized by the Milwaukee County District Attorney on January 23, 1976 in relation to a Wisconsin charge of attempted murder of a police officer. While held by police in a Vancouver jail, Peltier was the subject of a second warrant for the murders of two F.B.I. agents, burglary, and two attempted murders (McKey 3). When the United States formally requested his extradition on February 18, 1976, he was alleged to have committed the following crimes in the United States: "(1) November 22, 1972, Milwaukee, Wisconsin, attempted murder; (2) June 26, 1975, near Oglala, South Dakota, murder (of a Special Agent of the F.B.I.); (3) June 26, 1975, near Oglala, South Dakota, murder (of another Special Agent of the F.B.I.); (4) November 14, 1975, near Ontario, Oregon, attempted murder; and (5) November 15, 1975, near Nyssa, Oregon, burglary" (RE United States of America and Peltier 121).

The important distinction between this chapter in its exploration of the politics of legal representation and the others explored in this dissertation is that the court cases represented by the United States versus Leonard Peltier fall within the distinction between criminal and civil law. The purpose of criminal law is to punish offenses rather than safeguard rights.

[3] L. Erin McKey notes, in "United States of America v. Leonard Peltier File Review

(May 1994)," that although the proceedings for Peltier's extradition hearing took place over "18 days, commencing May 3, 1976 and concluding May 25, 1976," they set in motion "a chain of legal proceedings which continued over the next two decades" (3). During the next twenty years, Peltier appealed his extradition from Canada to the Federal Court of Appeal (October 25-27, 1976), the Minister of Justice (November 1976), and the Supreme Court of Canada (June 1989), alleging "F.B.I. misconduct" in the creation and use of "two affidavits sworn by Myrtle Poor Bear" as "direct eyewitness evidence against [him] with respect to the murders of the two Special Agents" (6). He also recorded numerous complaints against Canada with the United Nations Human Rights Commission, claiming that "Canada unlawfully extradited him," that "the Canadian Government should have rejected the extradition request, since the alleged acts on which it was based had taken place on the territory of the independent Lakota nation, whose sovereignty Canada has failed to recognize," and that "he was subjected to cruel conditions while detained in Canada" (3, 21). The initial submission to the United Nations was filed by a Canadian citizen, Elizabeth Clark, on Peltier's behalf, with subsequent complaints lodged by Peltier's extradition counsel, D. J. Rosenbloom and S. A. Rush, and by Peltier himself from prison. The complaints arose over a nine-month period and "were amalgamated and dealt with together" (20). The United Nations Human Rights Commission delivered its decision on September 1, 1979, finding that "Peltier's complaint about his extradition was . . . inadmissible because, by not seeking leave to appeal before the Supreme Court of Canada in 1976, Peltier failed to exhaust domestic remedies as required by the governing Protocol" (22).

Peltier's legal challenges to Canada's extradition were also opposed in the Federal

Court of Appeal where, in addition to questioning the validity of the Poor Bear affidavits through his assertion that the presence of a third affidavit "confirmed the absence of Myrtle Poor Bear [from the compound] on the day of the murders," he also alleged "Government misconduct on the part of the attorneys in the United States by willfully withholding and suppressing this information to [his] detriment" (14). The Federal Court of Appeal, nevertheless, dismissed Peltier's motion on the grounds that "there was no sufficient cause or reason to set aside the warrant of committal issued by [the United States] on June 18, 1976" (22). In his subsequent appeal to the Honorable Ron Basford, Minister of Justice, Peltier adopted a different strategy, emphasizing the "political character of the offenses" with regard to his extradition, and noting, in particular, "[his] personal history, the history of the American Indian Movement, the relationship of AIM to the U.S. government, allegations of American government misconduct towards AIM, and the law on offenses of a political character" (15). Again, Peltier's extradition was ordered by the Minister of Justice who, in spite of intercessions by individuals, groups, and associations from around the world writing on Peltier's behalf (16), asserted that the allegations of "inconsistencies in the Poor Bear affidavits" were a legal matter for the courts to decide; set aside the issue of "misconduct by the FBI," since "it would be the courts, not these agencies, who would try Peltier;" affirmed "American due process for Peltier and for Native Americans" based on the "fair treatment" received by Peltier's codefendants Robideau and Butler and by other AIM leaders; emphasized "American [a]ssurances" that Peltier would not be executed if convicted of murder nor tried for "any offences other than those for which he had been extradited;" and disclaimed the "[p]olitical character of the offense" because the minister remained unconvinced that the two murders, the attempted murder, and the burglary were "offences of a political character" (17). Peltier's final appeal to the Supreme Court of Canada in May 1989 sought leave for an extension of time to appeal and for an application to file fresh evidence (18). In formulating the grounds for his petition, Peltier claimed that "the Federal Court of Appeal erred in finding that the extradition judge had sufficient evidence to support an extradition Order;" erred in "refusing to admit further evidence available at the time of appeal that established that the respondent had obtained the Order extraditing the Applicant" by failing to disclose "relevant evidence" and through the misrepresentation of evidence; and asserted the relevance of new evidence, which "establish[ed] that the respondent obtained the extradition order by material non-disclosure of relevant evidence and fraud" (18). The Supreme Court ruled against a leave application and dismissed Peltier's appeal (18). Arguing that "any effective extradition arrangement requires good faith," and observing that the "Poor Bear episode raised questions about the bona fides of the extradition process," Justice Laforest concluded that "the issue involving the Poor Bear affidavits" remained "one for the Parties to the extradition arrangement and not for the Courts." He concluded by stating, "[a] review of the Appellant's brief does not demonstrate new evidence which weakens the circumstantial evidence led at the extradition hearing" (McKey 19).

An inquiry into Canada's involvement in Peltier's extradition by "Acting for the Innocence Project," a group that attempts to expose wrongful convictions lead by former Quebec Justice Fred Kaufman, claimed that "the Indian activist was extradited from Canada under false pretenses after a key witness, Myrtle Poor Bear, falsified evidence" ("Peltier Shouldn't have been Extradited" A9). A copy of the report was sent to the White

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House, Prime Minister Jean Chrétien, and Justice Minister Anne McLellan, whose spokesperson, Farah Mohamed, responded publicly that "Leonard Peltier was tried and convicted in the United States of killing two FBI agents without the testimony in question and his case is out of Ottawa's hands" (Thorne A15). In a letter dated October 12, 1999, Justice Minister Anne McLellan wrote to the Honorable Janet Reno, U.S. Attorney General, to notify her that Canada had undertaken an extensive investigation into Peltier's extradition (initiated by McLellan's predecessor, Justice Minister Allan Rock, and cited extensively above) and thereby concluded that Peltier had been lawfully extradited to the United States. In the letter, McLellan assures Reno of the validity of Canada's efforts to determine whether or not Peltier had been extradited properly and offers her assurances that "There is no evidence that has come to light since then that would justify a conclusion that the decisions of the Canadian courts and the Minister should be interfered with" (McLellan n.p.). I have taken these quotations from the letter by McLellan posted at the American Indian Cultural Support website, an organization dedicated to "preserving our various Nations sovereignty, legal rights, lands, and cultures" (http://www.aics.org/aboutus.html). My concern with citing this source, as with referring to almost any web resource available about the Peltier case, is that there appears to be no critical position available that is neither for nor against Peltier's guilt.

[4] Peter Matthiessen states *In the Spirit of Crazy Horse* that the charges of attempted murder and burglary were dropped in favour of the government's pursuit of first-degree murder in the deaths of the two agents. I am reluctant to rely on Matthiessen's description of the events that lead up to the capture and prosecution of Peltier because the book makes no attempt to offer an impartial interpretation of these incidents, nor does it allow

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the reader to formulate an opinion about the case aside from Matthiessen's view that the conviction of Peltier represented a "ruthless prosecution" by officials (xx). Since the trial was not recorded publicly, accounts of these events have relied on Matthiessen's interpretation, without adequately addressing his impartiality. Further credibility has been granted to the text by two lawsuits filed by South Dakota Governor William Janklow and F.B.I. Special Agent David Price, who claimed that the book "defamed them" (Wagamese A7). The suits against Matthiessen and his publisher, Viking Press, totaled "$49 million," making the action the most expensive libel suit in publishing history (A7). The suit by Governor William Janklow was dismissed in 1984, as was his appeal, while Price's suit was dropped in 1990. Initially published in 1983, *In the Spirit of Crazy Horse* was "pulled [t]wo months after its appearance" because of the lawsuits and reissued in 1991.

[5] The Peltier trial and his subsequent appeals have received such extensive media coverage that I cite at length here the facts of the case as they appeared in Peltier's first appeal of April 12, 1978, facts that both the defense and the prosecution stipulated to. I am relying on the appeal case for these details because the text of the trial held in March and April 1977 in Fargo, North Dakota remains unpublished; Matthiessen notes that the trial transcript includes more than five thousand pages of testimony (357). The details of the case remain consistent throughout each of Peltier's appeals and serve not only as the explanatory narrative for which Peltier was imprisoned but also as the spectral event that both haunts and threatens the general public so as to secure the authority of Peltier's guilt in the text of law. The facts read as follows:

> "On June 26, 1975, two Special Agents of the Federal Bureau of

Investigation, Jack Coler and Ronald Williams, were murdered on the Pine Ridge Indian Reservation in South Dakota. Leonard Peltier, Robert Eugene Robideau, Darrell Dean Butler, and James Theodore Eagle were charged with the murders in a two-count indictment for first-degree murder in violation of 18 U.S.C. §§ 2, 1111, and 1114. Robideau and Butler were jointly tried by a jury and were acquitted. The government dismissed the charges against Eagle. Subsequent to the Robideau-Butler trial, Peltier was tried by a jury, was convicted on both counts, and was sentenced to life imprisonment on each count, the sentences to run consecutively. He appeals.

Peltier was not a permanent resident of the Pine Ridge Reservation. His presence there in June 1975 was the result of a political struggle between certain reservation members who supported the structure of the tribal government, and supporters of the American Indian Movement (AIM) who advocated a different form of government. In an effort to alleviate the conflict, tribal elders had invited members of AIM to stay at the reservation. Leonard Peltier, Darrell Butler, Robert Robideau, Michael Anderson, Wilford Draper, Norman Charles, Norman Brown, and Joe Stuntz, all AIM members, accepted their invitation. They arrived in the spring of 1975 and stayed in an encampment on the reservation which became known as 'Tent City.'

In June of 1975, Special Agents Coler and Williams were engaged in felony criminal investigations on the Pine Ridge Indian Reservation. On June 25 and 26, they were attempting to locate and arrest four individuals, including James Theodore Eagle, who were charged with armed robbery and assault with a deadly weapon.

Shortly before noon on June 26, Special Agent Williams, driving a 1972 Rambler, and Special Agent Coler, driving a 1972 Chevrolet, entered the Harry Jumping Bull Compound on the reservation. The agents were following three individuals riding in a red and white van that had entered the compound shortly before them. The van stopped at a fork in the road leading to Tent City. The agents stopped at the bottom of a hill. Williams advised Coler on the radio that the occupants of the van were about to fire on them. Firing commenced. Other AIM members who were present at the Jumping Bull Compound or Tent City thereafter joined in the shooting.

The agents took heavy fire. Over 125 bullet holes were found in their cars. In contrast, only five shell casings attributable to the agents' guns were ever found at the scene. Both agents were wounded by bullets fired from a distance. Special Agent Coler was wounded by a bullet that traveled through the trunk lid of his car and struck his right arm. The force of the bullet almost took his arm off, rendering him completely disabled and causing him to lose blood rapidly. He crawled to the left side of his car, away from the gunfire. Williams was shot in the left shoulder. The bullet traveled from his shoulder, under his arm and into his side. Although wounded, Williams removed his shirt and attempted to make a tourniquet for Coler's arm. Williams at some point was also shot in the right foot.

These wounds were not fatal. The agents were killed with a high velocity, small caliber weapon fired at point blank range. Williams attempted to shield his face from the blast with his right hand, turning his head slightly to the right. The

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> murderer placed the barrel of his gun against Williams' hand and fired. The bullet ripped through Williams' hand, into his face, and carried away the back of his head. He was killed instantly. The murderer shot Coler, who was unconscious, across the top of the head. The bullet carried away a part of his forehead at the hairline. The shot was not fatal, however. The murderer then lowered his rifle a few inches and shot Coler through the jaw. The shell exploded inside his head, killing him instantly." (United States v. Peltier [1978] 318-19; footnotes omitted)

It is worth noting yet another element of Matthiessen's book that fails to generate a sense of detachment from the case but registers instead his bias in favour of Peltier's innocence and his repeated efforts to condemn the actions of the police and F.B.I. in their investigation of the crime. Throughout his narrative, he refers to the graphic images of the deceased police officers as the "death-scene photographs" (324, 353), often calling attention to them as "gory pictures of the agents' corpses" (359) in order to discredit their use as evidence against Peltier rather than to acknowledge their status as photographs taken of a crime scene. Such rhetorical posturing troubles the reader's ability to sympathize with the dead agents on moral grounds and thus also to empathize with the plight of Peltier accused of such a terrible crime. The sense of cloying argumentation reads, then, as yet another form of violence or violation as the reader is offered no critical space from which to retain a sense of moral outrage *and* decide the facts of the case.

[6] Matthiessen states that following the preliminary hearing in Sioux Falls, "the trial was removed by Benson to his own hometown of Fargo, North Dakota . . . where the FBI was furnishing the local police and media with ample supply of unsubstantiated rumors about armed Indians descending on the town to interfere with the processes of justice and

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perhaps with the innocent townsmen into the bargain" (320). Matthiessen also claims that "the citizens were counseled to lock up everything that was not nailed down, their wives and daughters included, and inevitably the twelve white jurors were impressed by round-the-clock SWAT teams of big marshals, there to protect them from Peltier's blood-crazed associates and perhaps encourage a right-thinking verdict" (320). According to Matthiessen, jurors were "[c]arted from place to place in a bus with taped windows . . . [and were] met regularly each day at the courthouse door by a SWAT team that would burst out and surround them before hurrying them inside" (320), a practice confirmed by interviewees in Robert Redford's documentary *Incident at Oglala*. The tense atmosphere created in the community by the added security presence and protective measures for the jurors provided Peltier with evidence in his final appeal before the United States Court of Appeals that the F.B.I. "created [an] atmosphere of intimidation at trial" (Peltier v. Henman [1993] 462).

[7] Matthiessen notes that in so ruling Judge Benson disallowed evidence on the following issues: "the suspect affidavits used in Canada, the historical background of Pine Ridge violence, the prosecution of AIM by the FBI, [and] the verdict at Cedar Rapids, together with all testimony from that trial" (323). Matthiessen claims that Judge Benson's order precluded the defense from "impeach[ing] Agent Gary Adams for glaring contradictions in his testimony at the two trials" (323).

[8] Darelle Butler and Robert Robideau were charged with the murders, tried, and acquitted in the United States District Court in Cedar Rapids, Iowa. The defense demonstrated that "certain witnesses had lied both to the grand jury, and during the trial itself, that certain testimony was at best questionable, and that the FBI had coerced witnesses during its

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investigation" (Hogan 908). Their justification for participating in the shootings was self-defense. After five days of deadlock, the jury returned a verdict finding them not guilty on all counts (Peltier v. Henman 463; Matthiessen 321; Hogan 908).

[9] One of the distinguishing features of legal culture documented in the court transcripts and pervasive in the court record emanates from the relationship between law and authority. As Jacques Derrida reminds us, in "Force of Law: The 'Mystical Foundation of Authority,'" law is always "an authorized force," a force that "justifies itself or is justified in applying itself, even if this justification may be judged from elsewhere to be unjust or unjustifiable" (925). The law's legitimacy from the court's perspective as an "authorized force," and our conventional understanding of how law works, is distinguished from commonsense notions of legal culture, and encounters its definitional limit (from "Before the Law," limit "marking . . . without itself posing an obstacle or barrier" 203), in the term "circumstantial." Where we might assume that the word at law means "inconclusive" or "presumed," in fact, the legal definition of the term resonates quite differently to secure its meaning within the judicial apparatus and to authorize its use. Circumstantial evidence is defined as follows: "viewed in the light most favorable to the government," it is "equally as probative of guilt as direct evidence" (United States v. Peltier [1978] 319). Scholars who have discussed the case have returned to the status of the evidence as "circumstantial" to persuade readers that the trial was unfair, but these authors neglect to establish the meaning of this term in legal culture. See the arguments by, for example, Matthiessen, Vander Wall, and Hogan for an illustration of this point.

[10] See Matthiessen p. 361.

[11] Derrida argues in "Before the Law" that to be summoned "before the law" figures a

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double movement of emplacement and constitution that invokes both a spatial and temporal positioning "as a kind of place, a *topos* and a taking place" (200). The double emplacement of subjectification that Derrida theorizes for persons "before the law" represents a form of violation that both enacts and constitutes its subject. Peltier's appearance resonates, then, as a position that he is forced to occupy through the allegation of criminal behaviour and a form of subjectification that he must endure through which he is constituted as a criminal.

[12] For Derrida, in recovering Walter Benjamin's essay "Critique of Violence" and reading it as a "precursor of deconstruction" (Hanssen 8), there exist two kinds of violence in law: "law making violence" that "institutes and positions law" and "law preserving violence" that "conserves, . . . maintains, confirms, insures the permanence and enforceability of law" (981). This distinction in Benjamin's essay, between the violence of legal ends and the violence of legal means, supports Benjamin's definitive claim that "the law's interest in a monopoly of violence vis-à-vis individuals is not explained by the intention of preserving legal ends but, rather, by that of preserving the law itself" (281). For Benjamin, legal violence, "when not in the hands of law, . . . threatens it not by the ends that it may pursue but by its mere existence outside the law" (281).

[13] Support for Peltier has coincided with his attempts to secure a new trial through the appeals process and with efforts on his behalf, particularly by the Leonard Peltier Defense Committee <http://www.freepeltier.org>, to obtain a presidential pardon (Thorne A15; "Peltier Case" A6). Individuals who have spoken out in support of clemency include 1992 Nobel Peace Prize winner Rigoberta Menchu ("Nobel Winner Says" A5), South African President Nelson Mandela, South African Archbishop Desmond Tutu, the

Archbishop of Canterbury, and the Dalai Lama ("Peltier Case" A6). Several entertainers and celebrities have also publicly requested exoneration for Peltier including Stephen Spielberg, Robert Redford, Sarah McLachlan, and Blue Rodeo (A6). In 1992, an ad hoc group of 49 Members of the Parliament of Canada, including Warren Allmand, Indian Affairs Minister at the time of the extradition, won legal standing to oppose Peltier's murder convictions ("Parliamentarians" D17). The members submitted an *amici curiae* brief, "challenging the legality of Peltier's extradition from Canada in 1976" (Peltier v. Henman 474). They argued that "the extradition was obtained by fraud because the United States government presented the Canadian extradition court with false affidavits by Myrtle Poor Bear," and they urged the court "to either set aside Peltier's conviction or to return him to Canada for a proper extradition determination" (474). The appellate court opinion was offered by Senior Circuit Judge Friedman, who reminded the members that "extradition is a matter handled between governments, not by private parties" (475) and who rejected their contention on behalf of Peltier as arriving "far too late" for consideration in the legal procedures since Peltier's appeal of his extradition was heard and rejected in 1978, with no justification offered from the *amici* to explain their delay in raising the issue (475). The court noted on several occasions that the *amici* had not "purported to participate [at the postconviction proceeding] on behalf of the Canadian government" nor did they "speak for the Canadian government" (475).

[14] Where Matthiessen does foreground his uncertainty about the injustices of the trial due to misconduct by federal agencies and his lack of a "strong sense of [Peltier's] innocence," he almost always returns to the problem of motive and covert behaviour on the part of government authorities. For example, he writes, "whether or not he had killed

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the agents, Leonard Peltier deserved a new trial, not only because of dishonest proceedings at Vancouver and Fargo and Los Angeles but because of accumulating evidence that the authorities had wanted him out of the way whether he was guilty or not" (469).

[15] Both Vander Wall and Hogan rely extensively on Matthiessen's book to provide historical information about the standoff at Pine Ridge and to support their contentions that the evidence against Peltier was the product of F.B.I. misconduct. See Vander Wall p. 291, and Hogan p. 911. Both authors also consider the subsequent appeals launched by Peltier, though Vander Wall concludes that Peltier's failure to secure a new trial represented the "logical outcome of judicial collusion with the FBI's plan" (304), whereas Hogan claims that Peltier's conviction discloses the failure of the legal system under *Bagley* to account for the interestedness of "the prosecutor and investigator" when they have "a personal stake in the outcome of the trial" (932). The legal standard in *Bagley* holds that "'the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or punishment'" (United States v. Peltier [1986] 774). Hogan claims, "Peltier, under *Bagley*, had to convince the appellate court that it was probable that the jury would not have convicted him had he been given a fair trial, where all pertinent facts were disclosed" (933). For Hogan, this requirement represents a "harsh effect" that pits justice against judicial expediency (933). He contends, "Those convicted under the standard of 'reasonable doubt' should receive a new trial if the prosecution withholds evidence that would have originally created that reasonable doubt" (935). Like Vander Wall, Hogan appears completely convinced of Peltier's innocence, citing at length from Matthiessen's

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interpretation of the trial and claiming that much of his "factual account of the Pine Ridge shoot-out . . . is derived from Matthiessen's narrative based on interviews with the survivors" (910).

[16] This last argument represents that most sophisticated and nuanced attempt to rethink Peltier's conviction in the context of the "Red Power" movement, of which AIM was a part, and to consider the trial as something other than "some continuing, willful, conscious government conspiracy against Leonard Peltier" (Sanchez et al. 45). John Sanchez, Mary E. Stuckey, and Richard Morris define rhetorical exclusion as a dialectical strategy and force relationship in which "protectors of the status quo come to rely upon a variety of communicative tactics designed to foreclose debate without appearing to engage in undemocratic action" (28). For Sanchez et al., one such tactic is "rhetorical exclusion" which represents "a rhetorical strategy that defines those who seek inclusion into the larger polity on their own terms as inherently destructive to that polity, questioning the motives of those who challenge governmental power, and a presumption that those involved in such challenges are inherently guilty of crimes against the polity" (28). "Rhetorical exclusion," they argue, "justifies whatever tactics those in power deem necessary to control challenges to its legitimacy, especially constant vigilance against any challengers, constant surveillance of them, and a need to define them and their actions in specific, ideologically predetermined ways" (28). According to Sanchez et al., the United States undermined the political terrain and public support for the American Indian Movement by continually "masking" their actions in ways that "pitted belief in 'democratic process' against [AIM's purported] 'lawlessness'" (31), thus shifting public opinion from a focus on "Red Power's" protection of "indigenous sovereignty and lands"

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to its representation as "wanton perpetrators of violent and irresponsible acts" (32, 34).

[17] See Sanchez et al., quoting former AIM President John Trudell, who remarks in the documentary, *Incident at Oglala*, "We may be one of the very few organizations in this country that basically every member of the organization was at one point, at one time or another, charged with some criminal act" (33). They also note that Peltier's extradition and trial occurred at "precisely the moment that Indian activism was abandoning the streets for courtrooms" (42). Matthiessen, too, claims that Peltier's conviction occurred when public sympathy for the Movement's objectives was on the decline. He writes: "The Prosecution and trial of Leonard Peltier took place at an unlucky time, when congressional sentiment was turning heavily against the Indians. In the East, the Passamaquoddy tribe of northern Maine was making a huge land claim based on the Indian Trade and Intercourse Act of 1790, and other tribes were making claims as well; in the Pacific Northwest, the Boldt decision in regard to the fishing-rights treaty had been upheld by the Supreme Court, causing new outbreaks of bitterness and violence" (318). Matthiessen claims further that the flourishing cause of Indian rights before the courts was fueling a racist backlash by anti-Indian groups across the mid-west, "just a few days before Peltier's capture" (318). He notes, "On February 2, 1976, . . . anti-Indian groups in Washington state, Montana, and South Dakota ("South Dakotans for Civil Liberties") had joined forces in an Interstate Congress for Equal Rights and Responsibilities (ICERR), which intended to fight what it perceived as federal discrimination against the white majority" (318-19).

[18] The exception, here, is the article by John Sanchez et al., which explains the government's tactics of "rhetorical exclusion" as behaviour that "conceals any

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antidemocratic consequences of its actions" by deploying "frames through which those who challenge the status quo may be understood" (28). Sanchez et al. claim that the term "Indians" in reference to the continent's indigenous peoples serves as one rhetorical mask that "remove[s] humanity–and thus the elements of American democracy most closely linked to its protection–from the legal process" (28). Their article explores the trope of representation illustrated by an eight-page government memorandum on the American Indian Movement (48 note 35), in which the government refers throughout to AIM's "record of violence" and "potential for violence" despite "its emphasis on traditional spirituality, or its focus on treaty rights" (37). They do not, however, address how legal discourse participates in and enables this process of delegitimation. Instead, the article takes a surprising turn in its discussion of Leonard Peltier's incarceration as a "consequence of exclusion" comparable to the character "Magua" as a "'bad' Indian . . . [whose] guilt is a matter of the perceptions forced by the requirements of maintaining the status quo" (43). The reference is to the well-known, militant character from James Fenimore Cooper's *The Last of the Mohicans* (43).

[19] To subject the role of AIM to such an analysis, one might begin by exploring the histories of the movement represented by such studies as *In the Spirit of Crazy Horse*, *Like a Hurricane*, and *Red Power* in connection with literary texts that question its principles as a site for the achievement of political consciousness for American Indian women. Literature, such as *Lakota Woman*, *The Jailing of Cecelia Capture*, and *The Life and Death of Anna Mae Aquash*, would be relevant to this discussion. An important point of entry might begin by tracking the mechanics of representation through which Myrtle Poor Bear emerges as the obscene supplement to Peltier's assertions of innocence,

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simultaneously invoked and dismissed in court transcripts and critical work to circulate through gender identity as the "self-consolidating other" (Spivak 273) to Peltier's valorized, heroic self.

[20] I explore the underlying premises for such a practice in my discussion of American Indian women's writing in the next chapter.

[21] Armstrong's resistance to "cross-cultural inclusiveness" (Jones 2) appears most emphatically in her introduction to *Looking at the Words of Our People*, where she insists on the autonomy of "First Nations Literature . . . defined by First Nations Writers, readers, academics and critics and perhaps only by writers and critics from within those varieties of First Nations contemporary practise and past practise of culture and the knowledge of it" (7).

[22] I gesture to the important recognition made by legal scholars Vine Deloria Jr. and Clifford M. Lytle that the criminalizing of aboriginal/indigenous peoples has to do with alterations to their status as "sovereign nations" through the erosion and transformation of subsistence and cultural activities by legal and legislative decisions rather than through willful acts of unlawfulness (10). To illustrate this point, one has only to consider the extensive criminal cases involving aboriginal/indigenous peoples in hunting and fishing violations, the number of which is too numerous to cite.

[23] In this story, which serves as a preface to Derrida's text, a common man seeks "admittance to the Law" but is "adjourned" from entering by a doorkeeper who continues to postpone the man's entry until the man's imminent death, at which point, when the man asks why no other has attempted to enter in all the time that he has waited, the doorkeeper replies, "No one else could ever be admitted here, since this gate was made

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only for you. I am now going to shut it" (Kafka, "Before the Law" in Derrida 183-84).

[24] It is difficult not to read in Derrida's analysis the specter of Althusser's work on ideology where he claims that

> all ideology represents in its necessarily imaginary distortion not the existing relations of production (and the other relations that derive from them), but above all the (imaginary) relationship of individuals to the relations of production and the relations that derive from them. What is represented in ideology is therefore not the system of the real relations which govern the existence of individuals, but the imaginary relations of those individuals to the real relations in which they live. (89)

[25] According to Felix S. Cohen, the Indian Reorganization Act (25 U.S.C. 461-279, also known as the "Wheeler–Howard Act") was designed by John Collier to "encourage economic development, self-determination, cultural plurality, and the revival of tribalism" (147). Cohen claims that for Collier "tribal governments and tribal ownership of land [represented] valid elements in the ultimate Indian adaptation to American society" (147). The Act was "intended to stop the alienation of tribal land needed to support Indians and to provide for acquisition of additional acreage for tribes" (147). Cohen states that "Tribes were encouraged to organize along the lines of modern business corporations; a system of financial credit was included to reach this economic objective" (147).

Although these goals of acculturation were provided as a "mechanism for the tribe as a governmental unit to interact with and adapt to a modern society" (147), they have been viewed with more suspicion by contemporary scholars, such as Ward Churchill and

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Glenn T. Morris, who argue that the Act was "imposed by the United States to supplant traditional forms of indigenous governance in favor of a tribal council structure modeled after corporate boards" (15), and by Rebecca L. Robbins, who claims that the "IRA incorporated the Meriam council/board model of 'tribal governance,' and required that these be based, not in native traditions, but in 'constitutions' and/or 'charters' drafted by the BIA. All decisions of any consequence . . . rendered by these 'tribal councils' were made 'subject to the approval of the Secretary of the Interior or his delegate,' the commissioner of Indian affairs. Worst of all, . . . the IRA decreed an electoral form of 'democratic majority rule' which was and still is structurally antithetical to the consensual form of decision making and selection of leadership integral to most indigenous traditions" (95).

[26] Smith and Warrior argue, "To Wilkinson, it was Proctor and Gamble who provided the most devastating evidence of the Indian movement's decline into irrelevance. He noted the consumer products giant had named a new toothpaste AIM, adding wryly that it was 'perhaps the greatest slap in the face the white society has given us in the last fifty years'" (275).

[27] In the interview with Lutz, Armstrong states that her "real quest" in writing the book was to "present a picture" in order "to give not just the historical documentation of that time but, beyond that, the feeling of what happened just prior to the American Indian Movement and what happened during that militancy period" (14). For Armstrong, the movement required an intellectual engagement that could "get that information to Native people, young people in particular, . . . talk about that period and some personal experiences . . . and talk about the experiences of others, whose pain and pleasure I did

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experience, and which as a result influenced me, and other people as well" (14).

[28] Armstrong illustrates the disjunction between the government initiatives, which decide unilaterally how to improve conditions for Indian peoples, and the perspectives of people who know how best to meet their own needs. As Tommy relates, "the [Indian] Agent decided that Indian kids needed recreation to help them live better[,] so they spent lots of money levelling some land and blacktopping it, then put sides on it" (49). "The roller rink," Tommy declares, "was really nice, everybody on the reserve said so. Only thing wrong was nobody had roller skates or even knew how to roller skate" (49).

[29] Olive Dickason notes that in 1968 Johnny Bob (Robert) Smallboy, a hereditary chief of the Ermineskin band at Hobbema, "left the reserve and with 143 followers set up camp on an old Indian hunting ground on the shores of Lake Muskiki" (417). Dickason states that for some time "the chief had been worried about overcrowding on the reserve; but even more, he was concerned about the loss of traditional values" (417). This camp, referred to in Armstrong's novel, represents the same site where Leonard Peltier was arrested during his flight from the United States to Canada.

[30] At one point, Tommy states, "I just didn't feel too much for what went on. I wanted violence. I wanted things to break and people to get crazy . . ." (126).

[31] Critics have noted the similarities between Mardi's character in the novel and the historical figure, Anna Mae Aquash, without questioning the gender politics of Armstrong's deployment of identity in this manner. See Lutz p. 17.

Chapter 3

White Earth History and Women's Collective Agency: Mobilizing Indigenous Feminism in Winona La Duke's *Last Standing Woman* and Louise Erdrich's *The Antelope Wife*

> America loves Indian culture; America is much less enthusiastic about Indian land title.
>
> Craig Womack (11)

Chapter One explored a law-literature dialect of representation as it was figured by debates within the aboriginal community about the status of disenfranchised women so as to claim a socio-political background against which to consider Maria Campbell's *Half-breed* for its articulation of aboriginal women's socio-economic needs and concerns. The next chapter examined the question of political activism in Jeannette Armstrong's *Slash* so as to explore the literature's engagement with organizing narratives that claim to express and represent political community for aboriginal/indigenous peoples. Each discussion, thus far, has problematized the question of identity politics through community organizing: in the first chapter, by calling for a conceptualization of aboriginal feminism that conceived of its subject through a recognition of disenfranchised aboriginal women, and in the second, by exploring the implications of community activism that define their organizing politics through relations of power that constituted normative definitions of gender identity which were entrenched in political discourses. This chapter also takes up the question of community politics and gender relations but extends the discussion to the United States context to explore the implications of a land claim by a resident from the White Earth Indian Reservation in northern Minnesota. In turning more directly towards the realm of high politics—that is, to an issue that has repercussions for indigenous identity at all levels of the social formation, from that of the individual's relationship to the community and from the community to the state and nation—my analysis asserts a strong connection between writing by indigenous women, which I argue, articulates forms of community membership based on cultural inheritances among women, and legal and legislative discourses, which I explore for instituting and circulating divisive identities based on blood quantum codes. My research in this chapter discusses the literary contributions of Winona LaDuke and Louise Erdrich in the context of exploring calls by indigenous women theorists for a form of feminist organizing that can address tribal politics, community relations, and the relationships of indigenous women to their historical inheritances. I understand this work to resonate with my analysis in chapter one, wherein I propose a model of aboriginal feminism conceptualized through women's rights, needs, and relationships, but also with my critique of political community in chapter two, in which I suggest that literature by Jeannette Armstrong critiques the politics of AIM to render problematic its omission of women's activism. The examination of AIM that I undertake in chapter two serves as a necessary transition to my discussion in this chapter, for not only has the American Indian Movement served as an important political discourse that inspired rights activism within indigenous communities, but its focus on the ethics of individual commitment and responsibility to the community also inspired important themes that arise in literature. Additionally, both Winona LaDuke and Louise Erdrich have articulated support for Peltier, registering the injustice of his incarceration and its implications for their literary and political activism.[1] My research in this chapter explores the literary and political work of LaDuke and Erdrich to situate indigenous feminism as an important political opportunity for reorganizing debates about aboriginal/indigenous women's subjectivity by exploring how literature intersects with the issues raised by legal and legislated identities and by reconceiving community relations through recognition of common historical inheritances and legacies of dispossession and renewal in literary representation.

The Zay Zah Case

On October 21, 1977, George Aubid appeared as a defendant before the Supreme Court of Minnesota in an action to quiet title[2] to real estate property located within the original boundaries of the White Earth Reservation in the State of Minnesota. Aubid, a "mixed–blood" Chippewa Indian and the sole surviving heir of Zay Zah (also known as Charles Aubid), contested the sale of his grandfather's allotment to Eugene and Laurie Stevens, a married couple of non–Indian descent who had purchased the property from Clearwater County after title to the land became vested in the State of Minnesota for non–payment of taxes. Both parties agreed that the land, allotted to Zay Zah in 1927 under the terms of the 1889 Nelson Act,[3] had been improperly assessed taxes by the Auditor for Clearwater County for the year 1931. They conceded that Zay Zah was, for the purposes of the allotment roll,[4] "an adult mixed blood Indian" (State of Minnesota v. Zay Zah 583) who "did not at any time during his lifetime apply for a patent in fee simple" (582) for his allotment, and that according to the terms of the trust patent[5] issued by the United States, the land was to be held in trust "for a period of twenty-five years [...] for the sole use and benefit of said Indian" (582). Aubid and the Stevens disagreed, however, as to whether or not the Auditor had rightly assessed property taxes for the year 1954, which, when unpaid, enabled the County to execute a tax certificate of forfeiture, "certifying that the time for redemption of said real estate had expired, and that absolute title to said real estate thereby vested in the State of Minnesota" (582). The conveyance of the property to the Stevens by the Commissioner of Taxation in May 1973 thus became the source of contention between Zay Zah's hereditary heir, George Aubid, and the Stevens, who were joined in suit with Clearwater County and the State of Minnesota as indispensable parties to the case.

Basing their appeal on a legislative act of 1906,[6] appellants argued that Zay Zah's trust status as a "mixed–blood Indian" had been altered significantly by the terms of the Clapp Amendment, which, they alleged, removed "all restrictions as to the sale, incumbrance [sic], or taxation for allotments . . . held by adult mixed–blood Indians" (584), and thereby enabled taxation of Zay Zah's allotment to begin at the end of the 25–year trust period as stipulated in the trust patent. Aubid, however, disagreed. He contended that the "trust status" of the allotment did not attach to Indian identity as appellants claimed, but rather, was in itself "a constitutionally protected vested property right" which consequently "prevent[ed] taxation, not only during the 25–year period, but also thereafter by reason of indefinite extension of the 'trust status' by the Wheeler-Howard Act of 1934"(583). Although appellants maintained that the Wheeler–Howard Act was inapplicable by reason of the Clapp Amendment's alteration of Zay Zah's legal status as a mixed–blood Indian,[7] the Supreme Court concurred with the defendant's position[8] and retained intact the trusteeship agreement between Zay Zah and the United States. Justice Scott upheld the decision by the District Court for Clearwater County and ordered that the tax certificate of forfeiture that had enabled the Stevens to purchase the property from Clearwater County be cancelled. He affirmed that equitable title to the land under the trust patent remained in Zay Zah and passed to his sole heir, George Aubid, Sr. Fee title to the land remained in the United States until such time as the holder of the trust patent, George Aubid, Sr., applied for and obtained a patent in fee simple.

The Zay Zah decision, in the archive of Indian land claims cases, has been interpreted as an important interruption in the judiciary's ability to determine a "consistent Federal policy" with regard to Congress's intent towards American Indian peoples,[9] and is more generally recognized as a victory for First Nations communities. However, I want to consider it here for circulating a normative vision of blood quantum identity and instituting asymmetrically organized social relations through the court's strategic deployment of race identity. My purpose is not to critique George Aubid's strategy of appealing to the legal system to adjudicate a dispute over his grandfather's allotment by affirming race inheritance through mixed–blood identity.[10] As Pierre Bourdieu argues in "The Force of Law: Toward a Sociology of the Juridical Field," "[n]othing is less 'natural' than the 'need for law'" (833). Aubid's bid to reinstate his grandfather's allotment to tax–exempt status by resorting to the judicial system as an adjudicator between conflicting claims, and his complicity with its normative representation of asymmetrically organized race relations, demonstrates what Bourdieu calls the "determining power" of law "to *formalize* and to *codify* everything which enters its field of vision" (qtd. in Terdiman 809). This regulative power has been theorized by Bourdieu[11] as a function of juridical language's "*appropriation effect*," a constitutive process of representation through which the legal institution rationalizes conflict by "combin[ing] elements taken directly from the common language [with] elements foreign to its system" in order to "inscribe in the logic of the juridical field's operation . . . a rhetoric of impersonality and neutrality" through which to distinguish legal knowledge from its implication in the realm of "common sense" (819). These "linguistic features," Bourdieu argues, contribute directly to producing "two major effects:" the "*neutralization effect*," which "mark[s] the impersonality of normative utterances" in order "to establish the speaker as universal subject," and the "*universalization effect*,"[12] which "is created by a group of convergent procedures," one of which includes "the recourse to fixed formulas and locutions, which give little room for any individual variation" (820). Within the subject–constituting effects of these linguistic codes, Aubid's challenge to the validity of the Clapp Amendment emerged as yet another ubiquitous claim for moral regulation by the court, while his exploitation of his legal status as a mixed–blood individual enabled a normative vision of Indian identity to emerge before the court.

Insofar as the court record discloses Aubid's successful manipulation of the existent political contradictions between successive policies of Federal Indian legislation, it also demonstrates the appropriative force with which the legal institution mediates conflicting claims to social resources. Through Aubid's claim, the law can be seen to constitute racial identity as a transhistorical, stable signifier that describes social relations historically and to disavow the political interests that produce colonial policies based on race classification through which the federal government manages relations between itself and American Indian peoples asymmetrically. The circulation of blood quantum distinctions as verifiable reflections of Indian identity within the court record illustrates how the legal apparatus performs this tautological function, for it reveals how the concept of mixed–blood identity enabled a uniform vision of Indian identity to emerge as a transhistorical signifier of American Indian social subjectivity. Blood quantum policy also exposes how the court legitimated its interpretation of this concept as normative within contemporary discourse through its reliance on a codified history of Indian identity recorded in successive policies of Federal legislation. This process of social regulation through which the legal institution authorizes its view of "subject peoples" as "normative citizens" has been described by Richard Terdiman as the "symbolic effect of *miscognition*," a form of "induced misunderstanding" through which "power relations come to be perceived not for what they objectively are, but in a form which renders them legitimate in the eyes of those subject to the power" (Terdiman 813). Within the constitutive force of legal discourse, Aubid's claim to a connection with Zay Zah through blood descent articulated the idea of race as biological inheritance in the arbitration of a contemporary dispute, even though the concept of race as biology appeared in the court record as enabling federal policies of colonial management.[13] Both parties in the case agreed to the concept as a representative description of race identity, in spite of the difficulties in previous court cases of determining blood quantum as a legal doctrine.[14] And Aubid and the Stevens grounded their conflict in an interpretation of mixed–blood identity as a stable, transhistorical signifier, despite the fact that the court examined contradictory policies of colonial management that contributed historically to the social construction of this subjectivity. With each successive consideration of "mixed–blood" identity as a legal concept, and in the court's reliance on federal policies of colonial administration as the legitimate site for authenticating Indian self–hood, Aubid and the Stevens participated in establishing the court's right to adjudicate their dispute, and they participated in a process of subjectification that illuminated the law's appropriative claim to regulate their social subjectivity.

The problem of assimilation that I have been attributing to Aubid's decision to appeal to the judiciary to settle the land dispute is not one that I wish to ascribe in an uncomplicated manner to his individual intentions or motivations. Rather, my purpose has been to examine how the court's regulation of race identity as normative within social discourse, and Aubid's subjectification within it, occurs through structural means. As Bourdieu explains, the social practices of law function like a "field"[15] whose specific logic is determined by two factors: the "power relations which give it its structure and which order [its] competitive struggles" and "the internal logic of juridical functioning which constantly constrains the range of possible actions, and, thereby, limits the realm of specifically juridical solutions" (816). The process of legally adjudicating a conflict thus engenders a state of power relations that is social in nature and rationalizing in practice and through which there occurs "a competition [between actors] for monopoly of the right to determine law" (817). This competition, Bourdieu argues, is essentially a social struggle: on the one hand, actors "possessing a technical competence" struggle against each other for the "socially recognized capacity to *interpret* a corpus of texts sanctifying a correct or legitimated vision of the social world;" and on the other, the competition for control of access to legal resources "foster[s] a continual process of rationalization" which "contributes to establishing a social division between lay people and professionals" (817). Both of these processes provide the "*appearance* of autonomy" (Terdiman 808) to legal decisions which "gran[t] to the status of judgements" their "symbolic effectiveness" and status as "legitimate" (Bourdieu 828). By invoking the legal system to mediate their dispute, Aubid and the Stevens resolved to abide by the decision rendered in the judgement, relinquished their social subjectivities to the universalizing standard established by the court, and became parties to the court's authority to regulate their behaviour through the objectification of their social relations. They thus participated in the "reproduction and continuation" of the law through a "process of rationalization" that secured and maintained the legal institution's "legitimation in the eyes of those under its jurisdiction" (Terdiman 809), at the expense of a recognition of how the dispute that coalesced around mixed–blood identity was imbricated in legislative practices of colonial management.

Colonial Governmentality

I have been employing a materialist reading to argue that the legal apparatus plays a determining role in the construction and legitimation of socially constructed race relations not only because the judicial system continues to be argued for as a site where the arbitration of discriminatory practices may be settled fairly,[16] but also because I think it is important to understand how the legal institution produces the ideological effect of "impartiality and neutrality" through which it attains the "general social consent" for the "intrinsic correctness of its determinations" (Terdiman 810). The Zay Zah case illustrates in microscopic form this process of social administration. Yet, it also reveals how the judiciary participates in producing the "differential effects of power" in which power works "not *in spite of* but *through* the construction of the space of free social exchange, and through the construction of a subjectivity normatively experienced as the source of free will, and rational, autonomous agency" (Scott, *Refashioning Futures* 36). The recognition by the court of Aubid's claim to mixed–blood status and the court's reliance on the concept–metaphors of race identity to mediate this dispute illustrate how the legal apparatus performs this regulative function, for it reveals how George Aubid could appear simultaneously as the "sovereign subject" of legal discourse with inherent rights in the nation–state and as a "knowable object" of mixed–race identity with an inherited history of colonial management.

In what follows, I explore how the court's recognition of Aubid's agency as a colonial subject precipitated the rearrangement of community relations on the White Earth Indian Reservation in terms of race identity following the court's configuration of "mixed–blood" identity as a site of social enablement. My purpose is to illustrate how the language of identity deployed in the Zay Zah case recirculated identity terms imbricated in federally imposed blood quantum distinctions, and to argue that through this rearrangement, the court case provided the language for Congress to intervene in the social dispute and reconfigure community relations in terms of race identity. Ultimately, I am interested in exploring how the language of identity provided the common ground for Congress's symbolic management of the social conflict at White Earth in order to mediate the court's intervention on behalf of "mixed–blood" inheritors. To illustrate this argument, I explore David Scott's theory of modern colonial power as a form of "colonial governmentality" in which modern institutions appear to deploy political discourses so as to constitute colonial subjects as "sovereign" yet disavow their claims to "sovereignty" by regulating the colonial subject's social subjectivity. The transformation of institutional space, in which "raced" subjects apprehend as "normative" political subjectivities that are created for them, characterizes, in Scott's view, the modern form of colonial power as it is organized through complex structures of "knowledge/power" "that give shape to colonial projects of political sovereignty" (25). For Scott, "the government of conduct" is the "distinctive strategic end of modern power," and the "decisive locus of its operation is the new domain of 'civil society'" (34).

Scott's theory of modern power, which he describes as "not merely traversing the domain of the social, but [as] constructing the normative regularities that positively constitute civil society" (36), provides an important conceptual apparatus for understanding how political discourses constrain the agency of colonial subjects in the institutional spaces of the modern nation–state. In his view, modern colonial power understood as a form of "colonial governmentality" explains the production of a "raced" subjectivity that is privileged as normative in social institutions yet constrains behaviour in "improving" ways. In what follows, I examine Scott's theory of "colonial governmentality" as an explanatory framework for understanding the aftermaths of the Zay Zah decision as a resolution to the land dispute that recuperated the grounds for colonial agency. My purpose is not only to intervene in scholarship about the White Earth community that has taken for granted "full–blood" and "mixed–blood" as constitutive political terms that indicate self–evident and normative representations of Anishinaabe identity, but also to complicate a commonsense view of colonial institutions, such as law and government, as affording colonial subjects agency when so often they appear to recuperate rather than enable subordinate group claims.

An example of scholarship that seems to me to require a more complex notion of colonial agency emerges in the work of historian Melissa Meyer. Meyer's research explores American Indian adaptations at White Earth during the period of land allotment and forced assimilation by analysing a wide–ranging body of government legislation and archived material, together with fieldwork research and community interviews, to address how American Indian peoples managed "to survive and retain their cultural practices" during ongoing coercive attempts by the federal government to remake Indian cultures (xiii). While I greatly admire Meyer's efforts to represent American Indian peoples as "legitimate historical actors with logical, rational motivations for their behaviour" (xii), I do not agree with her preferred terminology of referring to people who were forced to settle at White Earth after the initial allotment process as "immigrants" (64, in particular, and throughout), nor am I comfortable with the use of the term "conservative" instead of "traditional" to indicate "a more cautious approach to change and adaptation" by members of the community (xiii). The problems I have with this terminology are representative of my prevailing concern with Meyer's study. That is, in reading history through ethnicity, Meyer's research explains community adaptations at White Earth by deploying the terms "full-blood" and "mixed-blood" as concepts through which differences in terms of social, political, and familial relations are organized. These terms become constitutive elements in Meyer's study not only because they explain individual behaviours and group responses historically, but also because Meyer attributes ideological differences to blood quantum identity to describe how political disagreements worked ideologically. The concepts themselves, however, remain under theorized as unifying terms. They thus provide the grounds for a narrative of historical change that is teleological and unifying in terms of its treatment of American Indian identity. The effect of this historical approach is that the story of Chippewa adaptations at White Earth becomes homologous with the dominant historical narrative of American Indian responses to allotment policies in other cultural and geopolitical locations. The similarities between Meyer's use of the terms "full–blood" and "mixed–blood" "to distinguish between ethnic groups [who] became politicized as disagreements over management of reservation resources escalated" (5), and D. S. Otis' commentary on the reports by the Commissioner of Indian Affairs for the Five Civilized Tribes of Indian Territory in 1892 are notable: "This cleavage [between half-breeds and full-bloods] expresses the fundamental fact that the allotment controversy was a struggle between two cultures. With the irresistible penetration of the white civilization, the conflict within the tribes crystallized into two factions, the half-breeds and the full-bloods, the young and the old, the 'progressives' and the 'conservatives,' the sheep and the goats" (95). Although Meyer's analysis does not approach the level of doggerel detachment evident in Otis' study of American Indian resistances to the allotment process, it does participate in consolidating a narrative of historical change that posits a universal causal explanation of community changes by situating Indian identity as the cause for, rather than an effect of, competing political realities within American Indian communities. My research in this chapter has benefited greatly from Meyer's examination of the social, cultural, and political effects of invasive legislation, much of which I have come to understand through her analysis of it. But I am more interested in reading this material with a healthy skepticism towards what appear to me as the indefensible policies of colonial management. I take for granted the progressivist historical stance that American Indian peoples resisted legislative forms of colonization and that they were agents of their own histories. Yet, I remain committed to critiquing the progressive logic that underlies the writing of history. In my view, it is the terms "full–blood" and "mixed–blood" that provide the narrative continuity through which policies of colonial management were organized and adapted at White Earth and not only the colonial legislation handed down by Congress, which too often, it seems to me in Meyer's work, is analysed *only* for its positive and negative effects rather than for the mechanism of its deployment. As I go on to argue, it is the language of identity that remains consistent with policies of colonial management even as these policies proceed to dispossess White Earth residents of their lands and continue to circulate in cultural discourses to both positive and negative effect.

The concerns I have expressed about Meyer's study, which reads government legislation for its positive and negative effects but not for the language of its deployment, are similar in kind to my reservations about Holly Youngbear–Tibbetts' analysis of the socio–political legal history of the White Earth Indian Reservation in "Without Due Process: The Alienation of Individual Trust Allotments of the White Earth Anishinaabeg." Youngbear–Tibbetts provides an insightful examination of several court cases that, taken together, form a legal history for the White Earth community, and in particular, engage with the "equity suits" filed by the United States on behalf of the Anishinaabeg in the 1920s, in a staggering account of the political, judicial, and legislative maneuverings that occurred at the time to effectively deny the Anishinaabeg their day in court. Youngbear–Tibbetts illustrates how the judiciary established legal knowledge about the Anishinaabeg by adjudicating their title claims such that they had to become historical actors within the legal system, and exercised surveillance over the community by regulating their legal rights so that their identities as legal subjects were determined through successive court cases. Youngbear–Tibbetts' argues, however, that Anishinaabeg resistance to federal interventions in the community occurred only on the part of "full–blood" community members (97), thus risking a too hasty homogenization of Anishinaabeg identity that does not explain how political resistance to social identity occurred even as the courts deployed blood quantum identity to regulate and control the Anishinaabe people through the "equity suits." Moreover, the agency that Youngbear–Tibbetts attributes to "full–blood" identity as providing the ideological grounds for Anishinaabeg resistance then becomes the transhistorical signifier that gets conflated with "real" Anishinaabeg identity through which Youngbear–Tibbetts asserts the validity of legal agency for all Anishinaabeg people. Her article concludes with the following approbation of legal methods, as she writes, "had [the Anishinaabeg] been given the 'due process of law' that was promised to Indian citizens when the cases were first heard, rather than compromised by the wheeling and dealing of political appointees and a recalcitrant federal government, the wounds of White Earth might have been healed long ago" (130-31). This position, it seems to me, in its representation of the social conflict at White Earth as reducible to the legal opportunities afforded to "full–blood" community members and resolvable through the "due process of law," not only concedes what Richard Terdiman describes as a "tacit grant of faith [to] the juridical order" (810)—one that I have been arguing against—but also overlooks the material and ideological effects of juridical statements as constitutive of social reality and as complicitous with colonial management. The questions that arise, then, are how can we read history for the agency of colonial subjects without reading this agency as a reflection of ourselves, and how can we retain a theory of the subject in history without dispensing with a recognition of the historical narratives that give rise to colonial subjectivities? David Scott's theory of modern colonial power as a form of "colonial governmentality" appears helpful in this regard.

In "Colonial Governmentality," Scott locates colonial power and the institutions of the colonial state not as an opposition between colonialism and modernity,[17] but as a narrative of disruptive historical change that privileges the "*historically varied configurations*" of colonial rule that "enable us to mark the modernity *of a turn* in the career of colonial power" (27). In Scott's formulation, colonial rule does not occur as a periodized break with earlier forms of indigenous regimes through which it retains an "organic, internal connection," nor is it a distinctive formation in which the colonized can be distinguished as active "subjects of their own history" (28). The crucial question for Scott in conceptualizing the relationship between the modern nation–state and colonial power is *not* one of the "difference between" them, but rather of privileging their interconnections in order "to impose an historicity on our understanding of the rationalities that organized the forms of the colonial state" (30). In Scott's view, these interconnections are critical for rethinking the emergence of the "colonial state," on the one hand, so that we do not periodize "earlier colonial regimes" as "largely 'continuations' of prior indigenous [ones]," and thus risk a "homogenization of colonialism as a whole," and on the other, to avoid privileging the agency of colonial subjects such that they become "the authors of their own domination," and thus "deflect the force of anticolonial politics" (28). For Scott, the problem of modern power needs to be formulated as a relationship in which the "discontinuities [of] different political rationalities" and "different configurations of power" took the stage in "commanding positions" in order to distinguish the "terrain available for the colonized to produce their responses" (30–31). Such a conceptualization of colonial state power, for which Scott proposes the term "colonial governmentality," alongside an interpretation of "the *terrain* of political struggle" would thus take into account "not only [the] accommodation but also [the] resistance that would have to articulate itself in relation to this comprehensively altered situation" (31).

In theorizing the question of agency for colonial subjects as acts of "accommodation and resistance" within a "terrain of political struggle," Scott proposes a rationale for explaining how the material effects of colonial power are distributed through "an economy of meaning" that constrains and enables colonized subjects to behave in certain ways even as it produces restrictive discursive effects in terms of political representation. This theorization of the effects of colonial power, I would argue, shifts the conceptual ground of postcolonial considerations of the agency of colonized subjects from a Manichean opposition between the colonizer and colonized in which colonized subjects seek to replace/become the colonizer[18] and from a periodization of the problem of indigenous agency that posits the question of subordinate group claims in terms of "post–Civil Rights" social movements[19] to a recognition of the productive tension that exists between "new form[s] of colonial power" within the modern nation–state that depend upon the reconfiguration of colonized peoples as "desiring subjects" (45). In this formulation, the problematic of colonial governmentality works through the conceptual space of the modern nation–state to generate "the identification of interests" between the colonizer and the colonized in order to institute a form of "colonial governmentality" that "seek[s] to produce the conditions of self–interest or desire" through which to "induc[e] an understanding of what those interests were (or ought to be)" (45). For Scott, then, it is crucial for theories of colonial power to take into account the agency of colonized peoples as desiring subjects so that the question of agency is not posed solely on the basis of "whether natives were included or excluded so much as *the introduction of a new game of politics* that the colonized would (eventually) be obliged to play if they were to be counted as political" (45).

Scott's reconceptualization of the question of colonial agency as a process of "colonial governmentality" that engenders a system of "governmentalization" through which the nation–state constitutes colonized peoples as "desiring subjects" is indebted to the theoretical insights of Michel Foucault, whose analysis of transformations in the relationship between "sovereign power," the "art of government," and the development of the "great territorial, administrative and colonial states" (87–88) in his essay, "Governmentality," argues for a reconsideration of the modern nation–state as a site where the "problems of governmentality and the techniques of government have become the only political issue, the only real space for political struggle and contestation" (103). Foucault argues for this view of the modern nation–state as a series of general processes wherein the "governmentalization" of social relations occurs through a range of "general tactics of governmentality" that are both "internal and external to the state" and that "govern the continual definition and redefinition of what is within the competence of the state and what is not" (103). In Foucault's view, "the state does not have this unity, this individuality, this rigorous functionality, nor . . . this importance" (103). Rather, for Foucault, "what is really important for our modernity—that is, for our present—is not so much the *étatisation* of society, as the 'governmentalization' of the state" (103), which, he argues, operates according to a series of rational processes that take as their primary target "the population as a datum, as a field of intervention and as an objective of government" and that "isolate the economy as a specific sector of reality, and political economy as the science and the technique of intervention of the government in that field of reality" (102). Together, these two processes—population as the problem of government and political economy as the technique of intervention—represent for Foucault the "reconstruct[ion]" of the "great forms and economies of power in the West," which, he claims, give rise to the modern shape of institutional state power represented, first of all, by the "state of justice, born in the feudal type of territorial regime which corresponds to a society of laws—either customs or written laws—involving a whole reciprocal play of obligation and litigation;" second, by the "administrative state, born in the territoriality of national boundaries in the fifteenth and sixteenth centuries and corresponding to a society of regulation and discipline;" and finally, by a "governmental state, defined no longer in terms of its territoriality, of its surface area, but in terms of the mass of its population with its volume and density, and indeed also with the territory over which it is distributed" (104). In Foucault's analysis, the intersection of these three forms of government represent the modern manifestation of institutionalized state power expressed through a "state of government" that "bears essentially on population, and both refers itself to and makes use of the instrumentation of economic *savoir*"[20] so as to accord a "type of society controlled by apparatuses of security" (104).

Foucault's theorization of the modern nation–state as dominated by "apparatuses of security" that "employ tactics rather than laws and even us[e] laws themselves as tactics" so as to "dispos[e] things" such that "ends may be achieved" (95) may seem a rather bleak portrayal of how modern state power works through the "science of political economy" (100). Yet, his analysis of transformations in the "art of governmentality"—from its dependence on the "government of the family" as the privileged site for introducing the "idea of political economy"[21] into the "management of the state" (92) to its deployment of the concept of "population" as the "specific reality" through which to organize the "rational principles" of government (97)—articulates a relationship between the idea of population as the ultimate "end of government" and the representation of the individual as the site for the state's dispersal of "needs [and] aspirations" (100). This view of the subject in political economy reconfigures the question of the subject's agency from a position that privileges the autonomous agent of bourgeois society to a recognition that explains how the subject discovers in political discourse "what it wants" while remaining "ignorant of what is being done to it" (100). Such a view of the subject's agency in relation to the state's strategic dispersal of its "interests" depends upon critically rethinking the subject's individual agency in order to address how the state produces the subject's "interest at the level of the consciousness of each individual who goes to make up the population," and "interest considered as the interest of the population regardless of what the particular interests and aspirations may be of the individuals who compose it" (100). For Foucault, the idea of the subject represented by the generality of "the idea of population" not only provides the concept–metaphor for the "instrumentality" of the state as the "fundamental instrument [in] the government of population," but also enables the constitution of the subject in political discourse (pedagogy) and the individualization of its "interests" (desire) (100).

Land Claims/Identity Claims

Foucault's articulation of a relationship between the "individual" and the "state" as a process of "governmentalization" that fosters a recognition of the subject's "needs and aspirations" and that circumscribes the realm of individual agency through institutional means allows us to understand the structural relationship that David Scott reformulates to attend to the problem of colonial agency as it is constrained and enabled in state institutions, political discourses, and the modern colonial nation–state. Such an understanding is important for recognizing the problematic of complicity and resistance that appends the colonial subject's attempts to transform colonial relationships through institutional means. As an illustration of this point, in the aftermath of the Zay Zah court case, the White Earth community experienced precisely this problem when they were confronted by the reemergence of blood quantum identity as constitutive of community relations when Congress passed legislation to resolve the land claim dispute engendered by the Zay Zah decision. As Holly Youngbear–Tibbetts explains, the Zay Zah judgment prompted the Minnesota Chippewa Tribe (MCT) to undertake an investigation of land allotment practices on the White Earth Indian Reservation for the purposes of "identifying those land claims that followed the precedents established in the previous case of *Zay Zah v. Clearwater County*" (95). The project, known as the "2415 Land Research Project," "was initiated in 1978, under a Bureau of Indian Affairs contract, for the purpose of investigating land tenure status on the MCT's six member reservations" (93). Although researchers assumed initially that theirs was the first investigation to examine the alienation of trust allotments by the Minnesota Chippewa Tribe, it was in fact, "the seventh in a series of inquiries that had, in the main, proven that the Anishinaabeg allottees and their heirs had suffered wrongful dispossession of their allotted lands" (96). What followed from these investigations was the identification "of some thirteen hundred validated land title claims"[22] that, when made public through notification by the Bureau of Indian Affairs and the 2415 claims investigators, prompted current levels of "interracial tension" to reach "unprecedented heights" (93). According to Youngbear–Tibbetts, community relations, long marked by "institutional racism and mutual suspicion," deteriorated further as members became increasingly aware of the threat of clouded land titles to their properties. She writes:

> With each of the solicitor's determinations of wrongful land acquisition, the White Earth case files mounted. By 1982, the magnitude of validated claims was such that the Rights Protection Division of the Bureau of Indian Affairs began notifying current 'owners' that they were occupying lands whose titles were in some respect 'clouded.' Nearly concurrently, the 2415 claims investigators published a list of those allottees whose lands had been illegally alienated, so that White Earth enrollees could, by identifying an ancestor, determine whether or not they were parties to a land claim. The effect of both public notices was to send the communities of White Earth—Indian and non–Indian—into one of the most complex Indian land controversies in the history of the [United States] nation, and to immediately galvanize both Indian and non–Indian interests on White Earth into discrete and antagonistic interest groups. (117)

Residents organized themselves into "broadly based citizen groups" that, on the one hand, "convened as the United Township Association (UTA)" for those individuals "whose property interests were directly challenged by the Department of Justice's determinations," and on the other, as "Anishinaabe Akeeng (The People's Land)," an organization that represented heirs to "alienated Indian allotments" (119). Yet before individual White Earth allottees could file suit,[23] Congress passed special legislation entitled the "White Earth Reservation Land Settlement Act of 1985 [WELSA]" that purported to settle the question of disputed land titles on the White Earth Reservation, but in effect, "abrogated the rights of individual White Earth allottees to pursue their claims in court" (130).

Statute 1396 was signed into law on September 11, 1986 before the United States Senate Select Committee on Indian Affairs, with the objective of "settl[ing] unresolved claims relating to certain allotted Indian lands on the White Earth Indian Reservation, remov[ing] clouds from titles to certain lands, and for other purposes" (S. 1396 v). The legislation noted Congress's concern for the potential social, political, and administrative conflicts that would arise for state institutions from the legal adjudication of these claims,[24] and it rationalized the logic of the bill as a measure preventing further "hardship" and "uncertainty" for community residents, even as it brought into effect compensation terms that ignored the current value of the land,[25] disavowed the question of entitlement for heirs located off the reserve, and "abrogate[d] the private property interests of heirs in lieu of payment to the reservation government."[26] More importantly, however, the legislation restored to legal and legislative validity identity terms that had been instrumental to the regulation of land distribution during the allotment process.[27] Throughout the legislation, Congress relied on terms such as "full–blood" and "mixed–blood" to distinguish between land claim recipients (vii), reaffirmed hypodescent as an organizing category for identifying family relations (vii), and invalidated individual claims for residents whose tribal identities were formulated in terms of multiple band affiliations (viii). Residents who felt they had a legitimate land title claim were given one hundred and eighty days to file suit or were "forever barred" from pursuing a legal resolution to their claim (xvii), while any legal action taken by an heir, allottee, or other person stipulated under the identity provisions would "bar such person forever from receiving compensation" under the act (xvii). Finally, the Act required that the Secretary of the Interior publicize its investigation of all White Earth allotments in the Federal Register and newspapers in general circulation, as well as notify those individuals whose land was adversely affected by passage of the bill (xv).

To return to the organizing question that underlies this section, why do terms such as "mixed–blood" and "full–blood" continue to circulate in cultural discourses that concern American Indian communities, and what is their relationship to identity politics as a political strategy for American Indian peoples? The answer is evident in the paternalism of Congressional legislation that relied on the language of identity to require all White Earth heirs to accede to "race consciousness" in order to recognize their potential land claims, but then withheld the opportunity for these heirs to legally act on their claims through the court. The strategy of subject–constitution adopted by Congress illustrates what Richard Terdiman describes as "the inherent advantage of the holders of power [in] their capacity to control not only the actions of those they dominate, but also the *language* through which those subjected comprehend their domination" (813). This power, Terdiman suggests, "is structurally necessary for the reproduction of the social order, which would become intolerably conflicted without it" (813). The circulation of terms such as "mixed–blood" and "full–blood" in cultural discourses, then, can be interpreted to reflect the paternalism of Congress in its attempts to manage its relationship with American Indian communities, and to indicate a policy of ethnocentrism that illustrates a broader agenda of social management that includes a protectivist stance towards the status quo. The language of identity thus becomes recognizable as a management technique that polarized community relations in terms of "identity politics" and mutual "interest groups" such that residents' claims to social justice were directed against each other rather than against the government who engineered the problems of land title through its contradictory and assimilative federal policies in the first place.

Theorizing Strategies of Social Enablement

I have been assembling the background legal and legislative history for the White Earth Indian Reservation together with an assertion of the disruptive community relations that followed in the aftermath of the passage of the *WELSA* to illustrate how the legal and legislative resolutions offered by the court and Congress depended upon identity categories that emerged out of federal policies of colonial management. I have also been attempting to illuminate how the question of formulating community affiliations that do not conform to blood quantum distinctions continues to resonate as an important theoretical and practical issue for American Indian peoples. In what follows, I discuss how American Indian feminist critics have attempted to theorize a relationship between community identity, tribal history, and women's collective agency in connection with gender identity in order to create an oppositional space from which to restore gender identity as an analytical category to discussions of tribal politics and community values. The Zay Zah case and the *White Earth Land Settlement Act* illuminate how in the realm of "high politics" gender identity, by omission, is perceived as antithetical to the "real business" of tribal–federal relations. Yet, in contrast to the court case and Congressional legislation that privileges as normative male tribal identity, American Indian feminist critics reclaim colonial history and tribal politics by demanding attention to the multiple imbrications of race and gender identity through which American Indian women formulate their social subjectivities. Their analyses of communal social arrangements include theorizing the valency of both feminism and race identity for reconstructing history, and articulating forms of community identity that do not conform to blood quantum distinctions. Literature, I would argue, is yet another site of cultural production where this process of social reconstruction is made visible.

The fiction of Winona LaDuke and Louise Erdrich participates in this process of social reconstruction and illustrates the multiple registers of community affiliations through which LaDuke and Erdrich position themselves as cultural critics. It also illuminates how these authors privilege a recognition of the importance of gender relations to community relations, both as a site of collective identity formation and objectification such that women recognize their common identity and are moved to political action, and as a position that explains how relations of power within American Indian communities change in response to transformations in the organization of social relationships. For LaDuke and Erdrich, colonial history and tribal politics serve as sites of political engagement against which to assert new forms of social enablement through women's collective practices. Their literary production not only stages debates about community identity and tribal history in connection with gender identity, but also offers a problematization of these issues as they are represented through legal and legislative means. For LaDuke, an enormously popular social activist and politically–committed advocate for indigenous rights worldwide, the turn to literature provides yet another realm of political engagement. LaDuke is one of the most widely recognized spokespeople on behalf of environmental, political, and economic issues. She served as Ralph Nader's vice–presidential candidate for the Green Party in the 1996 and 2000 elections, was chosen by *Time Magazine* in 1994 as one of America's 50 most promising leaders age 40 and under, was selected by *Ms. Magazine* in 1997 as one of its women of the year, and, in 1988, received a $20 000 award by Reebok in recognition for her human rights activism, all the money she used to buy back nearly 1,000 acres of reservation land at White Earth (Cronin n.p.). She has also been instrumental in forming community–based organizations, such as the White Earth Land Recovery Project, to explore other mechanisms for recovering tribal lands after participating as a claimant in two court cases that exhausted all legal recourse available to the community (LaDuke 1999 3),[28] and the Indigenous Women's Network, a non–governmental organization that advocates a collective identity for all women as representatives of "Mothers of our Nations" (1995 1).

The potentially conflicted "new ageism" of LaDuke's account of women's collective agency as representative of "Mother Earth in human form" ("Indigenous Women's Network" 1) is countered by her public activism which displays a conscientiousness for the collective "marginalization of all women" from environmental collapse, and for the erosion of women's self–determination through "colonialism" and "rapid industrialization" in fledgling nations ("Indigenous Women's Network" 1). Although LaDuke defends her views on "the living wage, health care, [and] welfare reform" as "women's issues," she has failed to secure the support of mainstream feminist groups, particularly during the 2000 election in the United States when she was accused by prominent women activists not only of discussing "motherhood" issues at the expense of a concern for "feminis[t]" ones, but also of dividing support for the left by running on behalf of the "Green Party" and "taking votes away from the Democratic Party" (Rampell "Towards an Inaugral Pow–Wow" n.p.).[29] While it is probably more accurate to describe

LaDuke's commitments to mainstream feminist concerns as a form of "green feminism"[30] in keeping with her support for the Green Party's core values on women's issues,[31] her engagements with tribal history and gender representation in *Last Standing Woman* demonstrate a form of *feminist* "indigenism" that connects the erosion of inter–tribal historical ties with transformations to the status of women as a result of the disruption of power relations within the tribal community. My claims for LaDuke's novel are informed here by Marie Anna Jaimes Guerro's definition of "indigenism," which she describes as a "struggle against American colonization from the premise of collective human rights" (102), but I am restoring the term "feminist" to her analysis of the relationship between "native women and feminism" (101), even though Guerrero claims that the "priorities and sociopolitical agendas" expressed by the "white, middle–class women's movement" are "individualist rather than communal in orientation" leading to a polarization of interests that she expresses as "feminism versus indigenism" (102). Instead of adopting "Eurocentric paradigm[s]," Guerrero argues for a "universal indigenist worldview" that facilitates the recognition of "struggle[s] between Indian nations and the American state over questions of sovereignty and incorporation into the U.S. polity [as] most visible when one examines the contradictions that emerge over the tribal status of native women" (103). While I agree with her claims that "patriarchal structures" operate "both inside and outside the tribe" (103), I am unhappy with Guerrero's definition of colonialism and tribalism as undifferentiated forms of "patriarchy" (103). If colonialism is patriarchal and tribalism is patriarchal, then what difference does "race" identity make to the subjectivity of indigenous women, and by extension, colonial subjects?[32] LaDuke's novel, as I will argue, renders a much more complicated formulation of the relationship between race and gender identity through its exploration of the effects of colonialism as a disruption that occurs in the structural relations within the tribe, thus shifting relations of power, and through its examination of the subordination of Anishinaabeg women as a function of the loss of power associated with Anishinaabeg men, thus transforming relations of gender. LaDuke's turn to literature can thus be explained as providing another avenue for expressing her commitments to gender issues and tribal politics and as an opportunity to reconfigure aspects of the cultural imaginary that may not have been accessible to her through legal and legislative symbolic systems.

By comparison, Louise Erdrich has achieved international recognition as one of the most accomplished and well–respected American writers of her time. She has collaborated on several writing projects with her former husband, Michael Dorris, one of which included thematizing the problems of Foetal Alcohol Syndrome for Native American communities in a single–authored project undertaken by her husband for which she wrote a foreword, and another of which included a collaboratively–authored novel written to observe the quincentennial of Columbus's arrival in North America.[33] Although critics often cite Erdrich's claim that she understands herself primarily as a "writer" rather than a "Native American writer" in a move that appears to substitute *her* use of a professional identity as justification for a lack of critical recognition of the political investments that inform her writing,[34] her novels often express a profound concern for the plight of indigenous women which she explores in relation to the complex interweaving of character development with plot structure as it relates to women's access to tribal cultural inheritance and to socio–economic resources. Often, these women characters are also victimized or exploited at the hands of men. For example, in *Love Medicine*, Erdrich restores a sense of dignity and self–worth through inter–generational acceptance between women to Marie Lazarre, one of the principal narrators in the novel whose shame about her family's lack of allotment land and tribal status forces her to seek community acceptance, initially through the church, and subsequently through her marriage to Nector Kashpaw, a character whose tribal status is secure yet whose character indulges in excessive drinking and philandering. In one of the most moving scenes in the novel, Rushes Bear, Marie's mother–in–law, adopts Marie as her own daughter and disowns her son Nector when his flagrant disregard for his family responsibilities almost results in Marie's death in childbirth (104). Rushes Bear's poignant reminder of the burden of responsibility that tribal women endure *as women* resonates throughout the novel when she states, "'You shame me, . . . You never heard any wail out of her, any complaint. You never would know this birth was hard enough for her to die'" (104). Marie's expectation of death in childbirth, abandoned as she was as a child by her biological mother and forced to fend for herself and her family as an adult in light of the arrogant disrespect of her husband, reverberates thematically with the death of June Kashpaw (6), Marie's niece, whose "death as the object of another's desire"[35] at the beginning of the novel becomes the mechanism through which Erdrich asserts compassionate affinities between women and tribal continuity through storytelling.[36]

The necessity for women's identifications with each other as a means to secure their survival and self–acceptance despite the systemic dispossession of tribal peoples through the failure of land allotment policies and widespread socio–economic impoverishment also occurs as a theme in Erdrich's novel *Tracks*. Yet, however compelling the story of the Chippewa community is in terms of its representation of land dispossession and the forced assimilation of tribal peoples,[37] it is nonetheless recounted by Nanapush and Pauline in the service of providing Lulu Nanapush with a narrative of self–identity such that she can begin to understand why her mother, Fleur, forced from her land by the deception of the Indian Agent and the betrayal of Margaret Kashpaw, sent her from the desperation of the reservation to the loneliness and isolation of residential school (219, 226). It is Lulu's outright refusal of her mother as a parent (210) that prompts Nanapush to explain the story of Fleur's family loss and tribal disinheritance. Through his explanation, and Lulu's acceptance of it, Erdrich connects the broad sweep of historical dispossession through imposed allotment practices to the precarious and vulnerable positions that women occupy in response to external shifts in power relations. Not only does the novel begin with Fleur's loss of her family to disease and death (3), such that she becomes an object of suspicion and is driven from the community to Argus where she is raped by several men (26), and continue with her return to Pillager land to pay the annual allotment fee (36) in order to secure a place to give birth to her daughter (44), but it also ends with her dispossession from the land for which she sacrificed so much of herself and her family. In the final pages of the novel, Erdrich reveals how the story of land theft is also a narrative of women's more intimate dispossession, for the novel concludes as an explanatory narrative of a woman's loss in order to tell a tale of cultural and social dispossession that explains how a woman in these circumstances could lose possession of her daughter (210). In her seventh book of fiction, *The Antelope Wife*, Erdrich explores similar themes of loss and dispossession for tribal women, although her treatment of gender relations, as I go on to illustrate, demonstrates a much more conflicted and unyielding representation of the plight of women. The connections that LaDuke and Erdrich foreground between tribal politics and gender relations suggest that both writers engage with a dual and potentially conflicted set of critical and political demands in their writing that, on the one hand, takes issue with the call by contemporary American Indian critics for an unproblematized historical representation and reconstruction in American Indian writing, and on the other, participates in a process of cultural reinvention and renewal that illuminates how the revival and preservation of tribal identity must of necessity engage with the inheritances of a colonial past.

Before turning to my discussions of *Last Standing Woman* and *The Antelope Wife*, I wish to frame a debate about the politics of literary criticism so as to explore its imbrication with questions of authenticity and identity. The debate is organized around claims about the status of "mixed–blood" literature, and is specific to literary/critical analyses of Louise Erdrich's work. However, it is expressive of a homogenizing tendency in American Indian criticism to deploy an organizing binary of "insider/outsider" status in order to privilege forms of literary expression that either construct American Indian literatures as sites for the "identification" of tribally–specific cultural practices, and thus as "authentic" expressions of tribal culture, or as accurate "reflections" of tribal communities that foreground their representational reality, and thus privilege the literature's mimetic function. Elizabeth Cook–Lynn's critique of the "mixed–blood literary movement" for its repudiation of "tribally specific literary traditions" that are formulated within "the hopeful, life–affirming aesthetic of traditional stories, songs, and rituals" (76, 67) represents one articulation of a critical position within this debate. Cook–Lynn argues that the "major self–described mixed–blood voices of the decade" offer "few useful expressions of resistance to the colonial history at the core of Indian/White relations" (67). She claims that "there is [in this fiction, non–fiction, and poetry] explicit and implicit accommodation to the colonialism of the 'West'" with the result that the popularization of its "intellectual characteristics" circulates in cultural discourse "an aesthetic that is pathetic or cynical, a tacit notion of the failure of tribal governments as Native institutions and of sovereignty as a concept, and an Indian identity which focuses on individualism rather than First Nation ideology" (67). Cook–Lynn notes Louise Erdrich's fiction as a particularly egregious example of this tendency to the extent that she characterizes Erdrich's writing as "the Louise Erdrich saga of an inadequate Chippewa political establishment and a vanishing Anishinabe culture that suggests the failure of tribal sovereignty and the survival of myth in the modern world" (67). She argues, "Erdrich's conclusion is an odd one, in light of the reality of Indian life in the substantial Native enclaves of places like South Dakota or Montana or Arizona or New Mexico" (68).

One of the more troubling aspects of Cook–Lynn's argument is her tendency to assemble together writers from several different tribal and national backgrounds as representative of her claim that the status of "mixed–blood" writing has become a movement. Cook–Lynn distinguishes these writers as "the major self–described mixed–blood voices of the decade," and includes among them "Gerald Vizenor, Louis Owens, Wendy Rose, Maurice Kenny, Michael Dorris, Diane Glancy, Betty Bell, Thomas King, Joe Bruchac, and Paula Gunn Allen" (67). Other than arranging this list according to "mixed–blood" status, it is unclear to me how these writers are constitutive as a group, especially when they share no common ground according to gender, tribal origin, or national identity. In thus foregrounding these writers as “mixed–blood” rather than through another organizing category, Cook–Lynn seems to be complicitous with her own critique in so far as in her discussion of “mixed–blood identity” she foregrounds identity categories instituted through federally imposed blood quantum distinctions, thus lending critical weight to the terms, rather than through other categories of social enablement that might include tribal identity or political affiliation.

In contrast to Cook–Lynn’s position, which privileges as “resistant” forms of literary expression that reproduce positive images of American Indian communities in order to locate their oppositional politics as “interior” characteristics of the literature’s immanent critique, Louis Owens argues for a reading of “mixed–blood” literature that posits its resistant politics as representative of its “exterior” location beyond the literature itself, as a “place of contact between cultural identities, a bidirectional, dynamic zone of resistance” from which to confront the dominant discourse (*Mixedblood Messages* 47). The site of social enablement that Owens claims for a “hybridized, polyglot, transcultural frontier” that is “quite clearly internalized” by “mixed–blood” authors, yet provides the common ground from which “Native Americans . . . continue to resist [an] ideology of containment and to insist upon the freedom to imagine themselves within a fluid, always shifting frontier space” (27), relies on the “fixity” of the concept of “mixed–blood” identity as a transhistorical signifier that asserts its timelessness without reference to the literature’s internal variation or to its implication in socio–historical debates. In a critical style similar to Cook–Lynn’s, Owens analyses a range of “mixed–blood” literature for its consistency with his advocacy of a social/constructivist approach to American Indian writing. Like Cook–Lynn as well, his study of Erdrich’s style questions her overemphasis on negative representations of Native Americans, which he claims "underscores the fragmentation of the Indian community and of the Indian identity which begins with community and place" (*Other Destinies* 204).[38]

The literary/critical positions represented by Cook–Lynn and Owens articulate different ends of a spectrum in a debate that is concerned to legitimate the literary politics and oppositional practices of American Indian writing by illustrating how it participates in, or fails to reflect, tribal practices. I have provided an overview of these positions because I wish to draw attention to the way in which identity politics organizes these discussions. Both Cook–Lynn and Owens claim an interventionary space for "mixed–blood" literature in cultural discourse, yet in so doing, they collapse the complexity of Erdrich's writing and homogenize distinctions between tribally distinct American Indian writers. Cook–Lynn does so through a celebratory assertion that the "mixed–blood" story has "taken center stage" and gained momentum in "every genre and most disciplines during this era of the rise of cultural studies, diversity, and multiculturalism," even though it has been inattentive to the "life–affirming aesthetic" of tribally–specific literary traditions (67). Owens also collapses distinctions between authors in his assertion that "the mixedblood is not a cultural broker but a cultural breaker, break–dancing trickster–fashion through all the signs, fracturing the self–reflexive mirror of the dominant centre, deconstructing rigid borders, slipping between the seams, embodying contradictions, and contradancing across every boundary" (41), in spite of a recognition that the mixedblood's status represents a "frontier space where white and Indian worlds collide" (33). What remains unspoken in both of their considerations of the category of "mixed–blood" writing is the implication of the term in a governmental history of land allotment practices through which the federal government imposed forms of colonial identity on American Indian communities. This recognition and its historical specificity to the dispersal of tribal lands during the allotment process is crucial to understanding how the literary/critical practices we deploy as cultural critics circumvent and thus perpetuate analytical terms that avail colonial politics. The kind of criticism that I have been demonstrating, and one that I would call for, eschews self–evident forms of discursive production that rely on "telling our story" criticism to formulate a materialist practice that identifies the social effects of cultural work and its historical imbrications. This criticism would articulate the relationship between colonial epistemologies of American Indian peoples as they have been imposed within tribal communities and a standpoint feminist perspective[39] that privileges the complex and contradictory ways in which American Indian peoples inhabit their material lives. In what follows, I explore how American Indian feminist critics have participated in similar calls for materialist critical practices, before turning to an examination of writing by Louise Erdrich and Winona LaDuke to illustrate how it facilitates cultural critique in order to articulate new categories of social enablement.

The call for a recognition of the reciprocal relationship that exists between Native American women's traditions and a standpoint feminist perspective that can illuminate how feminism's commitment to analysing the reproduction of gender relations facilitates the reconstruction of American Indian women's historically–fractured lives has been raised by critics such as Paula Gunn Allen, Laura Tohe, and Kathryn Shanley. Allen's analysis represents one of the earliest attempts by a cultural critic to restore gender analysis to a consideration of the organizing politics of community practices. In

"Kochinnenako in Academe: Three Approaches to Interpreting a Keres Indian Tale," Allen argues that:

> [a]nalysing tribal cultural systems from a mainstream feminist point of view allows an otherwise overlooked insight into the complex interplay of factors that have led to the systematic loosening of tribal ties, the disruption of tribal cohesion and complexity, and the growing disequilibrium of cultures that were anciently based on a belief in balance, relationship, and the centrality of women, particularly elder women. A feminist approach reveals not only the exploitation and oppression within the tribes by whites and by white government but also areas of oppression within the tribes and the sources and nature of that oppression. To a large extent, such an analysis can provide strategies for the tribes to reclaim their ancient gynarchical, egalitarian, and sacred traditions (223).

Allen proposes a "gynocratic" reading of Native American tribal traditions that emphasizes the concepts of balance and interconnectedness and that foregrounds the values of personal autonomy, communal harmony, and egalitarianism found within oral narrative forms. Her reading, however, of the feminist content within the traditional Keres ritual "How Kochinnenako Balanced the World" seems to enact a form of "tribal feminism" that privileges a self-actualizing feminist consciousness as enabling social transformation, at the expense of illustrating how tribal communal cultural values connect with feminist agency. If it is the case that tribal consciousness differs from yet illuminates aspects of feminist standpoint analysis, then on what grounds is this difference staged, and how is a "tribal-feminist" perspective different from an "information-retrieval" approach to feminist consciousness that provided the basis for second wave feminist work?[40] These questions remain unanswered in Allen's model, yet they are crucial to articulating the differences in social and cultural location that Allen argues for.

In a similar manner to Allen's focus on a tribal "matrilineal" consciousness as self–actualizing and privileged within American Indian communities and through which American Indian women organize and articulate for themselves a place within tribal culture, Laura Tohe asserts the prominence of "Diné women" and "Diné matrilineal culture" to the survival and continuity of women's cultural practices, despite the "[disruptions of] five hundred years of Western patriarchal intrusion" (103). In a provocative essay entitled, "There is No Word for Feminism in My Language," Tohe articulates the relationship between the continuity of Diné cultural traditions, such as the "Kinaaldá, Walking into Beauty" or "coming–of–age ceremony" (106), an event that "celebrates [an initiate's] transformation from girl to woman" (106), and matrilineal deities, such as "Changing Woman" or "White Shell Woman," the "principal mythological deity" through which the "matriarchal system of the Diné was established," to the reconstruction of positive self–images for Diné women that have enabled them to resist their portrayal as "'those poor' Indian women who were assimilated, colonized, Christianized, or victimized," and to the establishment of their self–identities as "women who cling to the roots of their female lineage"(104). Tohe demonstrates how Diné women have sustained each other during disruptive socio–economic changes that have altered their social positions in terms of gender relationships; she argues that these women have continued to rely on "kinship" patterns and "clan relationships" to secure positive relational connections. She refuses, however, to represent or identify these practices as "feminist" in ideology. Indeed, Tohe seems determined to eschew a relationship between the cultural practices of Diné women as they sustained them through "five hundred years of colonialism" and feminism as a movement that she characterizes as ethnocentric and performative and that prompted white feminists of the 1970s to "burn their bras" and ignore the "issues that were relevant to [Diné women's] tribal communities" (109). While it is possible to dismiss as reductive the representation of the women's movement of the 1970s so as to recognize the problems of ethnocentrism and strategic performativity that Tohe is pointing to, it is much more difficult to disregard the issue of essentialism through which she argues for the exceptionality of Dine women's cultural systems, more difficult, because the exceptionality of Diné women legitimates a relational identity that connects Diné women through *identity as sameness* with women "from other tribes" (110). It is possible to appreciate Tohe's argument as privileging a form of cultural resistance that recognizes tribal identity as enabling for American Indian women even though tribal identity and matrilineal culture are not discussed in terms of their historical and political specificity, yet it is hard to forget the "exceptionality" of *Chippewa women* from the White Earth Indian Reservation who were so different from other Anishinaabeg women that when they married non–Indian men they were excluded from federal recognition (see note 2). An explanation of the self–actualizing consciousness of Diné matrilineal culture together with an understanding of why colonial policies targeted this cultural consciousness in other locations provides a broader recognition of the systematic and uneven colonial processes that affect American Indian women in discrete yet relational cultural locations. Tohe concludes that "[t]here was no need for feminism because of our matrilineal culture. And it continues. For Diné women, there is no word for feminism" (110). Yet, this claim rings as a somewhat hollow argument for the exceptionality of Diné women's matrilineal culture as it disavows a larger commitment to building a future for American Indian women's feminist community, one that can work against asymmetrical power relations in several cultural and/or tribal locations.

In contrast to Allen's focus on feminist consciousness and Tohe's emphasis on tribal women's exceptionalism, Kathryn Shanley calls for a shifting, local analysis that can attend to "the gulf" that exists between "feminism as we theorize and practice it in the academy . . . and the way women live their lives in postcolonial times and places" (209). Shanley argues for a cross–cultural feminist perspective that considers the common denominators and communal ties in the experiences and continuing traditions of contemporary American Indian women. She writes, "[w]hether living off–reservation in rural America, on–reservation in America's internal colonies that could be sovereign, or in America's cities, Indian women and their histories cannot be adequately represented or understood if we do not also understand their centuries-old oppressions" (210). The standpoint for Shanley's practice exists in the provisionally known but intimately familiar space of emplacement within her family. She writes:

> [my] 'Indianness' is more than blood heritage—it is a particular culture, Nakota, and a history of the place where I grew up, and more. I am also a mixed–blood, though I prefer [the] term 'crossblood.' . . . Woman, however, is the first skin around me, and I do not entirely know what it is or even how to talk about it. I do know it is not my story alone; my story belongs also to my mother, grandmother, sisters, friends, relatives, and so many others, including non–Indians, and all their perspectives must be

> respected in whatever I say. So my approach to the subject of American Indian women and history requires a shifting discourse, one that circles its subject and even circles my own subjectivity. (205)

The genealogy that Shanley constructs of a gendered identity dispersed across multiple inheritances of history and family provides a model of American Indian identity that is circular and provisional, yet conceives of the space of feminist critical work as a site for reconstruction and reimagining connections among women through the cross–cultural work of the critic. It is a space that contrasts, on the one hand, with imposed forms of tribal identity that privilege blood quantum quotas, and thus collude with federally–enforced identification policies, and on the other, with a self–constituting feminist subject that privileges individual agency. The question that remains, however, is how to conceive of women's gendered identity over time. Or to phrase the question somewhat differently in accordance with Shanley's recognition of the role of the cultural critic, what critical frameworks within contemporary feminist criticism can read the multiple intersections of race and gender identity in the context of an inherited colonial history?

To provide a provisional answer to this question, I turn to the work of feminist historian, Joan Scott, whose analysis of gender as an organizing category in women's scholarship proposes a two–part theorization of gender identity that depends upon conceiving of gender relations both as "constitutive element[s] of social relations based on perceived differences between the sexes" and as "a primary way of signifying relationships of power" (42). Scott argues for a materialist analysis of gender identity as "substantively constructed and [related] to a range of activities, social organizations, and historically specific cultural representations" in order to extend considerations of gender as an analytic category beyond what she characterizes as the "descriptive stage" of gender identifications to a conceptual level of analysis that explains how gender relations occur systematically (44). For Scott, feminist critics need to pursue not "universal general causality" but "meaningful explanation" through which to understand how gender relations interact with social organizations so as to articulate not only "a concept of human agency as the attempt . . . to construct an identity, a life, a set of relationships, a society within certain limits and with language," but also "[a] conceptual language that at once sets boundaries and contains the possibility for negation, resistance, reinterpretation, the play of metaphoric invention and imagination" (42). Scott's conceptualization of gender both as a site of subject constitution and as a language through which relations of power are articulated thus provides an understanding of "the individual subject" in relation to "social organization[s]" and an explanation for "the nature of [these] interrelationships" towards a recognition of "how gender works, how change occurs" (42).

In drawing on Scott's theorization of gender relations as a conceptual apparatus for reading LaDuke's *Last Standing Woman* and Erdrich's *The Antelope Wife*, my purpose is not to engage in a form of feminist privileging that deploys one set of critical thinkers against another. That is, I am not arguing for a reading of Joan Scott's work as more interventionary/resistant/enabling than the theorizations of gender and race identity offered by American Indian feminist critics and writers. This is not a form of "identity politics" as it is practiced in Susan Gubar's analysis of feminist criticism.[41] Rather, my aim here is to illustrate how these critical thinkers struggle with a similar set of organizing questions. In Scott's view, "gender as an analytic category" has been enabling for feminist historicism insofar as it "explain[s] the origins of patriarchy" based on "analogies to the opposition of male and female," acknowledge[s] the centrality of a "woman question" to recovery work in women's history by accommodating "feminism within a Marxian tradition," and recognizes "the formation of subjective sexual identity" in different schools of psychoanalysis so as to explain the production and reproduction of the subject's gendered identity" (41, 33). Nevertheless, Scott argues, "gender as a way of talking about systems of social or sexual relations d[oes] not appear" (41). Scott claims, rather, that feminist historians, in pursuing "single origins" in terms of gender analysis, have given little attention to the imbrications of the "individual subject [with] social organization" and to "articulat[ing] the nature of their interrelationships" (41). Her explanation for this neglect—that feminist critics have had "[difficulty] incorporating the term 'gender' into existing bodies of theory and convincing adherents of one or another theoretical school that gender belongs in their vocabulary" (41)—continues to resonate as an important materialist insight for feminist criticism, especially in light of ongoing reformulations of history that are being written with what Gayatri Spivak calls the "tools for developing alternative histories," that is, with analytic frameworks that read history through the multiple determinations of "gender, race, ethnicity, [and] class" ("Who Claims Alterity?" 271). To recognize the conceptual similarities between the issues raised by American Indian feminist critics in conjunction with the formulation of these questions in feminist historical work is to undertake a form of cross–cultural engagement that prioritizes the common ground and conceptual terrain through which to envision a form of feminist community. Such endeavors, as well as the hopeful insights of this kind of commitment, are aptly represented in fiction by American Indian women writers, especially Winona LaDuke and Louise Erdrich.

Last Standing Woman

In *Last Standing Woman*, Winona LaDuke negotiates a space for the recognition of gender identity to community relations and tribal history by configuring the story of the disruption of the Anishinaabe social order through invasive policies of colonial management as a series of interruptions that lead to the erosion of Anishinaabe cultural values and to the sexual exploitation of women. Set in the nineteenth–century in the waning moments of Indian resistance to the United States government's treaty–making process and to settler incursions on Indian land, the novel begins with the story of "Ishkwegaabawiikwe," an Anishinaabe woman "drawn to the border" between Anishinaabe and Dakota territory and "drawn to battle" by the discord that surfaces in her marriage when she realizes her mistake in marrying a man "at war" with "himself," "the spirits," the Creator," and "his wife," a man who "beat[s] her and cut[s] her . . . until she c[an]not see and c[an]not feel" (27). Isolated from her family and seeking to escape from the physical abuse of her spouse, Ishkwegaabawiikwe travels with her brother to the border zone that divides Anishinaabe land from Dakota territory and there witnesses the devastating effects of "Little Crow's War" with the United States (33). Confronted by the "charred remains" of the Dakota village, Ishkwegaabawiikwe searches for the Dakota woman whom she had observed and admired during a previous visit, and weary of the "battles between the Dakota and the *Anishinaabeg*, the battles between the Indians and the white men, [and] the war in her own lodge," she rescues the Dakota woman, "Situpiwin, Tailfeathers Woman," and claims her as her "sister" (34).

By asserting a connection with the Dakota woman as her kin through a courageous act of self–determination, Ishkwegaabawiikwe disavows her community's injunction against offering help to the Dakota people and restores a sense of self–respect to the woman who is bereft of her family and tribe, for in spite of Dakota expectations to the contrary, Ishkwegaabakiikwe acts to bring aid to the Dakota people out of respect for their prior affiliations as the Anishinaabe people's "most honored enemies," even though the Anishinaabeg leaders rejected the Dakota's call for support in their war against the United States government for fear of violating Anishinaabe treaty arrangements (32). The decision by the Anishinaabeg war chief "Shingobay" in refusing assistance to the Dakota people and in insisting on the Anishinaabeg people's autonomy results not in their future protection but in a form of administrative extermination that leads to the "terminat[ion] [of] the *Anishinaabeg* reservations of Gull Lake, Sandy Lake, Pokegama, Oak Point, and others" within a year (32). The novel thus privileges women's acts of resistance as engendering an alternative vision of community identity that focuses on inter–tribal communal relations rather than autonomous ones, and foregrounds the necessity for a dual approach to reconfiguring the history of the Anishinaabe community, one that not only illustrates the multiple identifications through which community affiliations occur, but also represents as constitutive the relationship between the cultural and sexual exploitation of tribal women and the political and territorial dispossession of the Anishinaabe people.

In a novel that relentlessly explores the issue of community fragmentation for several generations of Anishinaabe people who struggle to resist the physical erosion of the community's land base by "the white man's law" and his "treaty" (24) and the spiritual destruction of their ceremonies through the people's religious conversion by the "Episcopal and Catholic priests" (46), LaDuke deploys the kinship union between Ishkwegaabawiikwe and Situpiwin as a symbolic act of resistance to the erosion of community values that signifies women's cultural connection and interdependence and that conveys an ethical consciousness that transcends tribal dissolution and community antagonisms to assume both material and spiritual dimensions within the novel. Thus, when Ishkwegaabawiikwe and Situpiwin learn of the proposal by the "pine cartel"[42] and the Indian Agent Simon Michelet to deforest several allotments at Many Point and eliminate the seasonal round of trapping and wild rice harvesting at Round Lake (70), they are able to unite with traditional community members to protect the land and destroy the logging equipment in an act of defiance that reestablishes a resistant consciousness within the tribe and that consolidates the spiritual renewal of the community that began with Ishkwegaabawiikwe's recreation of the drumming ceremonies (40). Although the community does not go unpunished for its behaviour—several families starve to death when government rations are withheld by the Indian Agent (57) and members of the drumming circle are arrested and incarcerated for practicing the ceremonies (59)—Ishkwegaabawiikwe's opposition to the Indian Agent and the timber barons together with the spiritual regeneration initiated within the community by the resurgence of "Ojibway ceremonies" provide a touchstone for subsequent generations at White Earth. The younger people learn of Ishkwegaabawiikwe's courage and her kinship with Situpiwin through inter–generational storytelling, and recover the ceremonies as an alternative symbolic framework for countering the material and spiritual devastation that occurs on the reserve through economic disparity and rampant poverty.

Indeed, one of the most compelling features of LaDuke's novel is her representation of the social problems of alcoholism and drug addiction as a transhistorical phenomenon perpetuated by the fragmentation of community ties and the social isolation of community members. Through the story of Janine Littlewolf, LaDuke links the concept of intergenerational disinheritance and social isolation represented by Situpiwin's deprivation of her family and the loss of Anishinaabe members through death, disease, and residential schools (72, 74, 80) to the contemporary predicament of Anishinaabe women who endure systemic poverty and emotional despair as a result of their "accumulation of intergenerational grief" (117). LaDuke illustrates how the expression of Janine Littlewolf's desperation in "drown[ing]" in alcohol her "pain of loss" for her children who have been taken by social workers continues the legacy of disinheritance and isolation that women endure historically through the loss of their children to social welfare institutions, for in keeping with her personal history of absent parents and an institutional upbringing where her only "memories of intimacy" were represented by "the nuns of nine years of boarding school" (117), Littlewolf suffers from a similar legacy of abjection for "having signed over her parental rights," such that "she never could locate [her children], and they could never know of her, their blood family, or even of each other" (117). The resonances between Littlewolf's physical act of repudiation in signing away her children to the welfare agency reverberates symbolically with the political act of dispossession emanating from the treaty and allotment arrangements through which the Anishinaabeg people were perceived to have sealed away their allotment land with "the stroke of a pen on a sheet of paper" to "the white man's government" (24). Yet, LaDuke's novel struggles to reconfigure the abjection of this reading of Anishinaabe history by articulating a form of social solidarity between community members that is organized through "the crises and contingencies of historical survival" (Bhabha 199).[43] The figure of George Ahnib, Janine Littlewolf's only remaining son who "huffs" gasoline to escape their impoverishment and to enter the world of the drum (115), exemplifies LaDuke's commitment to expressing a form of community that is not bound by federally–imposed identity provisions or paternalistic categories of biological inheritance but emerges out of the community's accumulated identifications with each other and their collective struggles in history. In LaDuke's view, George belongs to the reservation through bonds of personal and group history and political priority, not only because "[it] was his home," but also because "he [was] related by blood to many families, . . . related by the tragedy and joy of the village's collective history" (119).

The central conflict in the novel illustrates LaDuke's concern to articulate a form of collective community identity that enables the social reconstruction of members' historically fractured lives without reassembling them at the expense of individual interest groups and without reconfiguring social justice issues as race relations. The decisive moment occurs during a stand–off between a community based group known as "Protect Our Land"—an organization reminiscent of "Anishinaabe Akeeng"— and FBI officials who are supported by the tribal council and several non–Indian community members who resent the demands made by "Protect Our Land" from a growing sense of frustration and vulnerability for having learned that their titles to property on reservation land are clouded (133).[44] When Alanis Nordstrom, an "Indian reporter" for the "*Rocky Mountain News*" who grew up off–reserve and whose identifications with her inheritances from the Anishinaabe community are "conveniently Indian" (183), returns to White Earth to cover the story of the occupation of the White Earth Reservation tribal offices by members of "Protect Our Land," she learns of the oppositional efforts by members of the group who challenge the tribal council's decision to construct a mill for logging purposes on sacred reservation land. Following the repeated dismissal of their objections by the tribal council, the people adopting traditional values resolve to voice their protest through confrontational means, for from the perspective of "Protect Our Land," the threat from clear cutting represents both a spiritual and material assault that not only jeopardizes their social resources through the possible elimination of their "hunting and trapping lands" and "medicin[al] plants" (148), but also risks their cultural past and future inheritances through the desecration of "grave sites" that house the artefacts of "beadwork," "medicine pouches," and "bones" of the Anishinaabeg dead, whose residence on White Earth land preceded the configuration of it through allotment boundaries (143). The participation in the resistance of Elaine Mandamin, the great–great–great granddaughter of Mindemoyen, a woman who lost her land in 1915 when the government's representative from the Smithsonian Institution claimed that her "cranial measurements" and "scarable skin"[45] determined that she was "of mixed blood descent" (65), together with the garrison strategies undertaken by Moose Hanford, the great–grandson of Ishkwegaabawiikwe, whose gravesite had been desecrated by archaelogy students from the university (138), illustrate how LaDuke represents the conflict over clear cutting as a social justice issue. This issue, for LaDuke, foregrounds the oppositional consciousness associated with women's collective cultural disinheritance, but builds solidarity within the feminist community through inclusive gender politics.[46]

Indeed, one of the most excruciating scenes in the novel occurs in response to the abdication of responsibility to an indigenous feminist community by Alanis Nordstrom. Frightened by the threat of guns arrayed on both sides of her as she enters the tribal offices to report on the activities of "Protect Our Land," yet confident that her "adopted survival strategy" of passing as Indian during the cultural events of powwows and rallies participated in "from the stands" will distinguish her from the group (183), Alanis is stunned by the realization that someone has mistaken her for a "militant" member of the community organization and fired on her as she attempted to leave the tribal offices to retrieve her belongings from her car (185). The moment of recognition and self–emplacement that Alanis experiences demonstrates LaDuke's uncompromising stance toward race identity as a social position that cannot be appropriated as a site of privilege dissociated from its imbrication in hierarchical social relations, for as Alanis struggles to hold back her recognition of her complicity with the material advantages that accrue to race identity through passing[47] as a *weekend Indian*, the narrative voice of the storyteller intervenes to assert the epistemic violence of race identity configured through racist doctrine:

> The bullets had not hit her, had not torn into her physical body and shattered bones and spilled blood, but the bullets had hit her just the same, hit her somewhere else deep inside. She was in shock as she stood still, silently fighting to regain her composure. *I am not you*, she had almost said, yet obviously to whomever had leveled the rifle to his shoulder, closed one eye to sight it, placed his finger on the cool steel of the trigger and pulled, obviously to that person she was *one of them*. And that

> person—whether he had tried to kill her and missed or merely had tried to scare her with a close shot—had taken away a part of her. And now her image of herself as the objective, professional newspaper reporter became confused with her image as the gunman saw her, as an Indian, as an enemy, as someone to shoot. The bullets had destroyed the boundaries in her mind, and the ricochet reverberated through her very soul. (187)

LaDuke resolves the conflict associated with Alanis' experience of disidentification and "miscognition" by illustrating how her experience of physical violation prompts her to abandon her position of objectivity such that she begins to identify with the vision of community and sustainability adopted by "Protect Our Land" (179), to broadcast the conflict publicly so as to expose the social and ethical commitments of the group (213), and to return often to the reservation as a prodigal member to reestablish connections in the aftermath of the resolution to the conflict that includes the cancellation of the "logging permit and mill construction lease" (219), as well as funeral arrangements for Hawk Her Many Horses, a member of "Protect Our Land" who was killed during the standoff (216). LaDuke settles Alanis's confusion over race identity and race privilege by demonstrating a transformation in her character's consciousness such that she recognizes the material costs of perceiving subordinate group identity and racist ideology as *optional* issues for political commitment.

Indeed, many of the political sentiments expressed in the novel are also reflected in LaDuke's public statements about the relationship between activist engagements and ethical responsibility. In an interview with the *Seattle Times*, when asked how she felt about "white people who want to participate in native–land, environmental or social–

justice causes," LaDuke replied, "'Do it because it's the right thing, . . . Don't do it because of guilt. Do it because it encourages your own humanity'" (Cronin n.p.). That LaDuke articulates a vision of feminist community that is inclusive in terms of gender identity yet organized through a politics of affiliation signals her responsibility to work exhaustively towards her goals of rebuilding community identifications and transforming relations of power in order to establish a desirable and enabling collective future.

One of the most compelling features of LaDuke's novel is her configuration of a site for the establishment of a community formulated on the basis of its "common humanity" and ethical responsibility in her claim for the White Earth Indian Reservation as an "Anishinaabe homeland" (23). Narrated through the transhistorical feminist consciousness of "Ishkwegaabawiikwe, the Storyteller" (17), the narrative restores to the Anishinaabeg people a vision of their common origins and historical agency that begins with the arrival of the people at "Gaawaawaabiganikaag," "White Earth," a place "named after the white clay you find [there]," as the consummate end to a spiritual journey that began with their "thousand year" migration from the "big waters in the *Waaban aki*, the land of the east" and concluded with their arrival "*Ningaabii'anong*, [in] the west" (23). LaDuke's vision of the formation of White Earth as a place constructed through divine intervention that transports the Anishinaabe people from a liminal state of existence where they "undulated between material and spiritual shadows" to a new beginning in the observance of the "Creator's law" and in recognition of a "season[al] round" (24) not only connects the Anishinaabe to the land through a spiritual purpose that disavows its formation as a remnant of the treaty process in which the Anishinaabe people become the victims of colonial management, but also articulates their relationship to the land as a material fact in recognition of their historical agency.[48] Thus, in LaDuke's view, secular issues that privilege the relations of law and government over the relations of the metaphysical cannot supersede the Anishinaabeg people's rights to the land. For LaDuke, the Anishinaabeg people's material and spiritual connections to the land are fused such that they cannot be distinguished through quantifiable blood connections or illegally imposed colonial patterns of ownership.

The concluding events of the novel emphasize this view as they illustrate the return to the White Earth community of the bones of ancestors and their cultural belongings that resided for decades in the Smithsonian Institution in Washington (270). Organized through the efforts of Elaine Mandamin and Danielle Wabun, two members of "Protect Our Land" who discover an "inventory of the people and belongings missing from the reservation through the years" (269), and with the aid of Alanis Nordstrom, who researches the "anthropologists and Indian agents' records for White Earth" to match "people [with] documents and sacred items," the community prepares for the return of "funerary objects, human remains, and objects of cultural patrimony" to be reburied on the land (271). The scene in which Moose Hanford's van breaks down while he's traveling from Washington to White Earth with the remains of "ancestors" from the Anishinaabeg community located in the back (274), his feelings of vulnerability when several people stop to assist him including a police officer who he worries might arrest him (276), and his buoyant response when he realizes that the people surrounding him have offered their help because they support the rights of American Indian peoples to repatriate their cultural artefacts (278) demonstrate the future moment of cooperation and understanding that LaDuke envisions between Indian and non–Indian peoples. The novel concludes by offering the issue of repatriation,[49] and its attendant recognition of the rights of First Peoples to reclaim their lands and their cultural effects, as a contemporary problem whose resolution all people can work toward. Such recognition on LaDuke's part reconfigures the boundaries of identity politics from an oppositional stance that privileges race identity and asymmetrically organized race relations towards a communal position that envisions a common humanity. What resides at the forefront of this vision of community relations is a feminist indigenous community organized through the values of mutual respect and cultural obligation.

The Antelope Wife

In contrast to LaDuke's novel which incorporates specific references to the legal and legislative history of the White Earth Indian Reservation in its efforts to formulate a vision of feminist indigenous community that can alter the social relations inherited from a colonial past, Erdrich's seventh work of fiction, *The Antelope Wife*, explores the problem of the exclusion of indigenous women from tribal history and cohesive cultural relations by depicting their absence as an historic act of displacement through the violence of colonial encounter. Set during the late–nineteenth century, in a moment constituted by a "spectacular cruel raid upon an isolated Ojibwa village mistaken for hostile during the scare over the starving Sioux" (3), the narrative begins with the story of Scranton Roy, a United States soldier scorned in love by a mysterious dancer, who joins the cavalry in a fit of temper and discovers in battle a "sudden contempt" and "frigid hate" for the fleeing Ojibwa (4). In the chaos of "groaning horses, dogs screaming, [and] rifle and pistol reports," Roy stabs suddenly at an old woman who attacks him with nothing more than "a stone picked from the ground" (4). As he pulls his blade from her body, the woman utters the words “Daashkikaa. Daashkikaa,” meaning “cracked apart” (213), an oath that sends him fleeing across the prairie in pursuit of a village dog who carries on its back the granddaughter of the dead medicine woman.

From this unconventional originary tale of splitting, Erdrich constructs the narrative of colonial encounter as generating a decisive break in the social fabric of the Ojibwa community that ushers in distinct lines of cultural descent represented by the mixed blood cultural inheritances of the Roy/Shawano women in the novel. Yet, contrary to legal and legislative discourses that privilege “authentic” notions of race identity that disrupt community relations in terms of unequal social relations, Erdrich illustrates how the changes configured by the moment of colonial violence usher in a different arrangement of social relations that contrast with those inherited by the Ojibway community through the union of “Midassbaupayikway, Ten Stripe Woman, Midass,” an Ojibway woman of the south descended from the “three–fires people,” and “an Ivory Coast Slave” and a “Shawano man” from the “windigo, bear–walker, bad holy dream–man” people of the North (35). One of the key differences inherited from the Anglo–American patrimony of the Roy line is a legacy of violence towards women. For not only does Scranton Roy kill Midass’s mother through a callous act of bravado that haunts him with guilt and anxiety until his last breath (239), but he also abducts her granddaughter, names her in honour of his mother, and claims her as his own (5). In a scene that thematizes the disorder and chaos engendered by Roy’s abduction of Blue Prairie Woman’s daughter from the Ojibway village, in a violent appropriation of gender as well as heritage, the narrative illuminates how in a desperate act to halt the child’s crying Roy slips the baby to his breast and suckles the infant (7). Contrary to critics who have read this scene as a moment in which Roy "rescues an Indian baby" and "miraculously nurs[es] the infant at his own breast,"[50] I would argue that Erdrich configures this moment as an appalling act of unnatural displacement that is surpassed only by a subsequent scene of a woman's death in childbirth in which, as Roy's wife "Peace McKnight" "step[s] from her ripped body into the utter calm of her new soul," she sees her husband "put his [newborn] son to his breast" (17).

By configuring these acts of patrimonial displacement as forms of disruption that foreground the exploitation of women, Erdrich illuminates how transformations in the power relations between men and women produce the conditions that lead to women's sexual exploitation, and provide the common ground through which women inherit each other's intergenerational grief. Thus, when Rozina Whiteheart Beads' sorrow for her daughter Deanna, who dies as a result of her father's failed suicide attempt (69), becomes so unbearable that she no longer attends to her deathly–ill, twin daughter Cally (89), she inherits a measure of "Ozhawashkwamashkodeykway/Blue Prairie Woman's" despairing grief for her lost "nameless" daughter who escaped from the dawn raid on the Ojibwa village on the back of a dog (12). When Blue Prairie Woman, obsessed with sorrow for her lost child, leaves her community to search for her "nameless daughter," she abandons her children to the care of their grandmother, Midass, to be raised "as her own" (15), and then leaves them altogether when she dies of fever (19). The figure of the absent mother thus emerges as a powerful trope through which Erdrich connects the break in cultural transmission to the disruption of women's social relationships. Consequently, when Cally is left to the care of her grandmothers Zosie and Mary, the twin descendents of the twins of Blue Prairie Woman (103), she experiences a sense of isolation and disconnection such that she is confused about her identity and cannot overcome her grief for her lost sister, Deanna (112).

One aspect of Cally's lost sense of connection between herself and her cultural inheritance is expressed by her inability to distinguish between matters of cultural importance. When she loses her "turtle holder of soft white buckskin" containing "her birth cord," "dry sage," and "sweet grass" that she was supposed to "keep with [her] all [her] life"and have "bur[ied] with [her] on reservation land," she thinks "nothing of it" until "many years later" when she realizes that "over time the absence . . . will tell" (101). The "absence that tells" and that expresses Cally's feelings of family disconnection becomes a metaphor in the novel for the lack of emotional support and family dependence, for like Cally's failure to appreciate the continuity of cultural ties represented by her "turtle holder," her grandmothers, who are also raised without a mother figure and grow up under the supervision of Midass,[51] rupture the family tradition initiated by Blue Prairie Woman. Instead of naming their twin daughters "Zosie and Mary" as they had been named, they call them "Rozin" and "Aurora" and break the "continuity" between family names that "gave the protection" (35). In yet another mirroring of the disavowal of family tradition, Rozin strays from the ritual of cultural continuity and names her daughters "Cally and Deanna" (35). The effect of these choices is devastating for each mother: Zosie loses Aurora when she dies of diptheria and has to be "pried" from the "five–year–old arms" of her sister (35); Rozina forfeits Deanna when she follows her father as he plots his suicide and suffocates from carbon monoxide poisoning when he abandons the idea (70). That each woman's choice appears to be undertaken from an autonomous moment of self–determination indicates how Erdrich's novel privileges as a necessity acts of cultural continuity that enable a vision of women's collective identity that attends to the valency of culture, history, and family inheritance to the formation of social identity.

In one of the most moving passages of the novel, Erdrich illustrates how Cally Whiteheart Beads, Rozina's daughter, suffers from a one–sided view of her personal history, which includes guilt and concern for her mother's sorrow and utter contempt for her wastrel father, such that it forestalls her feelings of compassion for her father's descent into alcoholism and prevents her recognition of the multiple strands of her cultural inheritances. When she arrives in Minneapolis in search of her grandmothers whom she hopes can explain the gaps in her understanding of her family's genealogy, and aid her in uncovering the cultural inheritance that resides within her name that ultimately she hopes will allow her to overcome her grief for her sister, her grandmother, Zosie, confronts her with the knowledge that her father's plunge into alcoholism has become dangerously uncontrollable (121). Cally's first–person narration of her inner feelings and responses to her grandmother's inquiry about whether or not her mother "knows" illuminate her selfish desire to disidentify from the social embarrassment and shame of her family's past. While she thinks to herself, "Of course we know, in a way, but that is only a general way. . . . And I don't care, the truth is, [I] don't want to open up that piece of my heart that I locked shut after Deanna. All his fault, my heart says, all his fault and his alone," she replies to her grandmother, "'I never, and I mean never, want to see his face again'" (122). Contrary to Cally's emphatic denial of her father's existence, he appears nonetheless as a figure in the bakery where Cally sits with her grandmother, an apparition "saggy–skinned and drooping like a week–old helium balloon," who "stands before the counter barely holding himself upright" (122). When he turns around suddenly and fixes Cally with a stare, he croaks out, "'Cawg . . . Cawg . . . Cawg,'" stops and says in a "terrible whisper," "'Deanna . . . '" (122). The pain articulated in Richard Whiteheart Bead's misrecognition of his daughter and the overwhelming sense of despair evoked by this scene reverberate thematically with the feelings of identification Scranton Roy experiences when he stabs the old medicine woman who in her death reminds him of his mother. Neither man is recoverable in the narrative such that he can atone for his past behaviour: Richard dies from a gun shot wound self–inflicted in the hotel hallway of Rozin and Frank's honeymoon suite (180), and Scranton promises his son, Augustus, to Cally's great–grandmother as atonement for attacking the Ojibwa village but his grandson fails to make reparation by physically abusing and betraying Cally's grandmothers (238). Each man, nevertheless, plays an integral part in the recognition of family inheritances and tribal history that must be acknowledged and accepted if Cally is to overcome her grief and understand the pattern of loss and desperation through which successive generations of women were forced to endure their lives.

Indeed, Erdrich illustrates the embeddedness of family history with Cally's need to recognize her relationship to a family inheritance of loss, sorrow, and violence related, in part, to the mysterious woman, "Sweetheart Calico," Blue Prairie Woman's first–born, who is drugged, assaulted, and raped by Klaus Shawano when he becomes obsessed with her beauty such that he kidnaps her and traps her in "Gakahbekong, Minneapolis" where she cannot find her way home (30). Cally's story, together with the "bitter milk" from a rescurer's breasts that bestow "disconcerting hatred" and "protection" (18) through the historic legacy of the Roy line, along with "the names of women" that belonged to "many powerful mothers" (13) out of an Ojibwa past, enables her not only to understand how the many sides of cultural inheritance engender the "[f]amily stories [that] repeat themselves in patterns and waves generation to generation, across bloods and time," but also to accept "the pattern we go on replicating" that produces "a suicidal tendency, a fatal wish. On this side drinking. On the other a repression of guilt that finally explodes" (200). When Cally recognizes the broader pattern of historic displacement and loss through which women bear the responsibility within tribal culture for the unconscious acts of violence and selfishness that destroy the community's social fabric, she begins to grasp the senseless self–pity of her father's inheritance (64), the guilty complicity of her mother's abdication of responsibility in remaining with him (58), and her grief and sorrow for her absent sister (122), all of which impel her to forgive her parents for the incomprehensible violence that destroys their family. The connections that Erdrich articulates between the multiple strands of Cally's cultural inheritance and her ability to accept the family guilt and complicity that underlie her sister's death enable her to free Sweetheart Calico from the city that traps her (219) and to claim her inheritance as a descendant of Blue Prairie Woman with the power of the dreamer to restore the original names of women (217). Ultimately, through her description of Cally's recognition of the importance of tribal family history to a meaningful understanding of cultural identity, Erdrich's novel argues that it is only through acceptance and integration, rather than separation and denial, that women are able to recover a sense of their past inheritances and intergenerational community relations.

The preoccupation that Erdrich displays in *The Antelope Wife* for the importance of family names to the restoration of cultural memory and inherited community is also represented in an essay entitled, "The Names of Women," in which Erdrich betrays a similar preoccupation with imagining how to recover the significance of Ojibway women in history from the permutations to their identities effected through the vicissitudes of colonial encounter. Erdrich writes:

> *Ikwe* is the word for woman in the language of the Anishinabe, my mother's people, whose descendants, mixed with and married to French trappers and farmers, are the Michifs of the Turtle Mountain reservation in North Dakota. Every Anishinabe *Ikwe*, every mixed-blood descendant like me, who can trace her way back a generation or two, is the daughter of a mystery. The history of the woodland Anishinabe—decimated by disease, fighting Plains Indian tribes to the west and squeezed by European settlers to the east—is much like most other Native American stories, a confusion of loss, a tale of absences, of a culture that was blown apart and changed so radically in such a short time that only the names survive. And yet, those names. (132)

In this tantalizing piece, Erdrich represents her own efforts to come to grips with a cultural inheritance of historical loss and disconnection. But rather than privilege herself as the site for an unproblematized reconstruction of historical and cultural identity, Erdrich illustrates in this essay and in *The Antelope Wife* how the reconfiguration of Ojibwa women's historically fractured lives must of necessity account for their social locations in history, the legacy of cultural inheritances that they represent, and the restorative power embodied in language and naming through which to imaginatively reconstruct the cultural specificities of tribal women. Her vision of the cultural knowledge embodied in women's traditions and social relations articulates this dual inheritance of loss and reconstruction, yet it also demonstrates an overwhelming sense of the importance of restoring recognition of the site of language and intergenerational memory to the social reconstruction of tribal women's lives.

Both Winona LaDuke and Louise Erdrich assert multiple commitments in their representations of tribal identity and community affiliations that provide the common ground through which to explore the problems of historical disruption and social conflict in order to articulate the necessity for building new forms of community identity. Their writing engages in a process of cultural renewal and integrity that resembles what Vine Deloria Jr. defines as "a commitment to a larger whole" that "revolves about the manner in which traditions are developed, sustained, and transformed to confront new conditions" (27). The attention to forms of cultural renewal evident in the novels of LaDuke and Erdrich explains how literary practices by American Indian women writers are imbricated in social, historical, and political discourses yet irreducible to them. This recognition is of necessity a materialist one in that it acknowledges the incommensurability between the discourses of "high politics" and literary production, but charts their thematic intersections so as to illustrate how literature arrives at resolutions that cannot be staged by legal and legislative means.

Endnotes

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[1] As I discuss below, LaDuke's novel resonates with Peltier's trial and incarceration by reclaiming the Pine Ridge confrontation as one occurrence in a series of decolonization struggles by indigenous peoples. In LaDuke's novel, it is the presence of the AK-47 rifle, which the prosecution deployed as incontrovertible evidence against Peltier but which LaDuke reconfigures as a means of establishing affiliations, that connects the White Earth struggle with other indigenous occupations in the United States and in Canada. See p. 181, in particular. Erdrich has also voiced her protest against Peltier's ongoing incarceration. See "Leonard Peltier Has Paid Enough" (n.p.).

[2] A quiet title action represents a legal process that constitutes evidence of a right to property.

[3] According to Felix Cohen, the United States government officially suspended nation–to–nation treaty–making relations with Indian tribes in 1871, and replaced the treaty process with a new approach that depended upon "agreements" considered by Congress to be similar in kind to treaties (127). These "agreements" assembled legislation that gradually moved away from a tribe–by–tribe relationship toward a more general comprehensive programme of legislation that "increased the statutory power vested in Indian service officials, and stead[ily] narrow[ed] the rights of individual Indians and tribes" (128). One of the first policies to emerge under this new system of administration was the General Allotment Act of 1887 (also known as the "Dawes Act," for Senator Henry Dawes who sponsored the bill), a policy that conjoined assimilationist federal legislation with demands for economic expansion and development in the West. As Cohen explains, "proponents of assimilation policies maintained that if Indians adopted

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the habits of civilized life they would need less land, and the surplus would be available for white settlers. The taking of these lands was justified as necessary for the progress of civilization as a whole" (128). The Allotment Act, as is generally recognized, had devastating consequences for American Indian peoples in terms of eroding traditional systems of collective land tenure and tribal autonomy, and for instituting an arbitrary system of blood classification known as "blood quantum" codes through which tribal land was distributed (Churchill and Morris 14). Of the several purposes behind the assimilationist intent of the Allotment policy, one objective aimed "to have the same laws applied to Indians that applied to whites," while another intended to eradicate "the difference[s] [between] Indian and white concepts of property" (Cohen 131). In order to institute the Dawes Act for reservations nationwide, Congress had to pass special legislation designed to enforce the allotment policies in specific tribal communities. This legislation would then supersede previous arrangements between the tribes and the federal government. The Nelson Act of 1889 represented the requisite legislation for the Chippewa of Minnesota. Under the terms of the Act, "the Anishinaabeg were to cede all reservations in the state except White Earth and Red Lake and relocate to the White Earth Reservation to farm individual allotments . . . A three-member commission [set up to initiate land allotment] would negotiate with each band and have responsibility for compiling censuses, taking votes, securing removals, and making allotments" (Meyer 52).

[4] Melissa Meyer states that the 1889 Nelson Act "made no distinctions between 'mixed-bloods' and 'full-bloods'" in terms of Indian identity (191). Rather, the U.S. Chippewa Commission set up to enforce the allotment legislation among the White Earth residents

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relied on a ruling by the Assistant Attorney General dated May 24, 1895 that "a 'Chippewa Indian' must be of 'Chippewa Indian blood'; must have a recognized connection with one of the bands in Minnesota; must have been a Minnesota resident when the act was passed; and must move to one of the reservations with the intention of residing there permanently" (60). Meyer notes that "the opinion discriminated against the children of Anishinaabe women who married U.S. citizens after 9 August 1888 denying them rights under the Nelson Act," and that it "also extended Nelson Act benefits to those who had received 'half-breed scrip' under the 1854 and 1855 treaties" (60), since the ruling enabled "recipients of land scrip [to] legally receive a total of two and in some cases three allotments of land all told" (60). Meyer notes that in spite of this contradictory effect the ruling on identity provisions ultimately "eased the work of the U.S. Chippewa Commission by clarifying questions of entitlement" (60). The problems of entitlement in allotting White Earth lands were not resolved by this ruling, however, nor did the order enable allotment to occur at a more rapid pace to ease the pressures on the federal government to open reservation land to non-Indian settlement. Rather, the ruling exacerbated tensions that already existed among White Earth residents who had been forced to abandon their autonomous villages and distant hunting bands in order to relocate to White Earth, where distinctions among the people in terms of regional and cultural differences were disrupted. According to Meyer, the treaties literally "papered over" complex social and political organizations among the Anishinaabeg: "some treaties established 'bands' and 'nations' whose entire legitimacy rested on nothing more than the paper on which the treaties were written" (37). The community distinctions between several groups of Anishinaabeg people were transformed not only by the allotment

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process that destroyed affiliations based on lines of cultural descent and marriage, but also by government legislation that distinguished people in terms of "competency" and "emancipation" based on blood quantum distinctions. Through the allotment process, cultural differences among the Anishinaabe people established through patterns of settlement and migration were replaced by systems of classification determined by "full–blood" and "mixed–blood" identity. For a thoughtful and comprehensive analysis of the ways in which differences in cultural, social, and religious practices were consolidated at White Earth in terms of "mixed–blood" and "full–blood" distinctions through government legislation and internal political dissension, see Melissa L. Meyer's *The White Earth Tragedy: Ethnicity and Dispossession at a Minnesota Anishinaabe Reservation*.

[5] The "trust patent," established under the terms of the 1889 Nelson Act, disallowed the sale or incumbrance of Zay Zah's allotment for twenty–five years by vesting title to the land in the United States government until such time as Zay Zah proved or was accorded competency by the Indian Claims Commissioner. The intent behind the stipulation of competency was "to allow Indians to learn to regard land as real estate and [to] manage their own affairs before they would be allowed to sell the land or be required to pay property taxes" (Meyer 51). In this manner, U.S. citizenship, which attached to "patents issued in fee simple," represented a determination that the "Indian" was competent to "adopt the habits of civilized life" (Churchill and Morris 14). The "trust patent" stipulated that at the end of the twenty–five year period the allottee would be issued a "fee patent" by the United States which would convey title to the land to "said Indian" "discharged of said trust and free from all charge and incumbrance whatsoever" (*State v. Zay Zah* 584).

The Zay Zah case is significant in comparison with previous suits in that both parties agreed—and the court recognized—that at no time had Zay Zah applied for a patent in "fee simple" for his land. For an examination of several court cases that prove the Zay Zah decision as an exception in this regard, see Holly Youngbear–Tibbetts' "Without Due Process: The Alienation of Individual Trust Allotments of the White Earth Anishinaabeg."

[6] The Clapp Amendment, dated 21 June 1906 and introduced by Moses Clapp, a Minnesota senator who secured inclusion of the rider to the 1906 Indian Appropriations Act, followed from the Burke Act passed nationwide in May 1906 which designated as "competent" those allottees who wished to undertake management of their own affairs (Meyer 152). It concerned only the lands of mixed–blood allottees on the White Earth Reservation and applied only to the State of Minnesota. The Rider determined competency amongst tribal members in terms of full–blood and mixed–blood identity by removing "all restrictions governing the sale, incumbrance (sic), or taxation" of allotted land within the White Earth Reservation held by "adult mixed bloods" (153). Meyer notes that "the text of the Clapp Rider and its further elaboration in 1907 were carefully drawn to achieve the broadest possible application;" the Rider's terms "would apply 'heretofore' and 'hereafter' to adult mixed-bloods and to those full-bloods declared 'competent' by the Secretary of the Interior" (153). The legislation also extended further authority to the Secretary of the Interior to "terminate the trust period and issue fee patents whenever he was convinced of an allottee's 'competence'" (152). Although this "competency clause" (Meyer 152) required that allottees apply for a patent in fee simple, the Clapp Amendment heightened rather than resolved tenuous distinctions amongst the

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Chippewa in terms of "full–blood" and "mixed–blood" identity. Moreover, it participated in a policy of indiscriminate determination of Indian identity based on blood quantum codes practiced nation–wide. Felix Cohen notes that during the period from 1916 to 1920, "the Interior Department undertook a wholesale program to issue fee patents to Indians without their consent" (427). He adds further, "the Department established 'competency commissions' which traveled about and issued large numbers of fee patents unilaterally, sometimes over the open opposition of the Indians" (427 n205). The effect of this practice was that by 1928 "four–fifths of the Indians declared 'competent' no longer owned their land" (427 n205). The indiscriminate practice of retracting the federal trusteeship relationship through the determination of individualized identities, together with the moralizing appraisal of American Indians through competency determinations, indicates a far-reaching pattern of land dispossession amongst American Indian communities that also gestures to the problematic practice of asserting claims to American Indian identity through the terms "full–blood" and "mixed–blood" as enabling accounts of Indian identity.

[7] Appellants argued that there would be no "trust status" to continue beyond the stipulated 25–year period (583).

[8] Justice Scott noted the contradictory logic implied by the appellants' claim that the Clapp Amendment converted title to the land from a "trust" relationship vested in the federal government to a "fee simple" relationship vested in the individual allottee. He observed that since both parties agreed that Zay Zah's land was appropriately tax exempt during the initial 25–year period as stipulated in the trust patent, the land could not then be considered taxable under the same patent because the "vested right to be free from

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state taxation had to derive from somewhere, and the only possible source was the trust patent itself" (584).

[9] Justice Yetka (concurring specially) raised the problem of the shifting and contradictory nature of Federal policies towards American Indian communities in his statements following the decision in the case. He noted that the decision "contributes to the still unresolved problems which are the product of shifting Federal policies towards Indian tribes" (589), and he argued that in addition to "rais[ing] serious due process considerations" the decision also heightened the "state's dilemma" with regard to its legal jurisdiction, since, on the one hand, the trusteeship agreement between the United States and American Indian tribes vested power of attorney in Congress, yet, on the other, Public Law 280 (enacted in 1954 with regard to unterminated indigenous nations, without tribal agreement; see Churchill and Morris 15) asserted the State's authority over criminal and civil matters on several reservations, including those in Minnesota. Justice Yetka also noted the financial implications of eroding the state's tax base by exempting tribal property from taxation, but continuing to compel the state to provide services on reservations without also requiring that American Indians contribute to the services through taxation (590). He acknowledged that "[w]hile property tax exemption is viewed by Indians as a right deriving from special historical status and a means of strengthening cultural identity, it is viewed by whites as a privilege and a lack of fundamental fairness. This kind of problem could be solved by a consistent Federal policy exercised with more concern for its long range effects" (591).

[10] It remains quite puzzling to understand why Zay Zah was issued a "trust patent" for his allotment by the Secretary of the Interior in 1927 rather than a patent in "fee simple" as

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was to be expected given the passage of the Clapp Amendment in 1906. In their discussions of the policies of land allotment and the significance of mixed–blood status to its administration, both Meyer and Cohen note the wide spread pattern of dispossession that followed from attaching blood status to land distribution. The implication that follows from asking the question about Zay Zah's identity status is the suggestion that while the pattern of colonial administration of land allotment through blood status may have been dominant, it certainly could not have been hegemonic. The uncertainty of determining Zay Zah's actual blood status also complicates further the court's reliance on blood quantum distinctions in the administration of land title by raising the problem of determining blood quantum identity through the band rolls and through determinations made by the Secretary of the Interior in distributing patents. The question remains, was Zay Zah in fact a "full–blood Indian" entered erroneously on the White Earth Band roll by successive Indian commissions or was he a "mixed–blood" Indian considered "incompetent" by the Secretary of the Interior who issued a trust patent rather than a fee patent to register his "moral inadequacy"? The court record does not dispute the accuracy of Zay Zah's blood status but rather rationalizes this question by indicating that both parties were in agreement that Zay Zah was a "mixed–blood Indian" for the purposes of the allotment rolls (583).

[11] I am very grateful to Teresa Zackodnik for sharing this article with me and for our ongoing discussions about Bourdieu's importance to understanding how the judicial system functions as a legal apparatus. My discussion of Bourdieu's theories has been greatly informed by Zackodnik's analysis of the regulation of race identity in "Fixing the Color Line: The Mulatto, Southern Courts, and Racial Identity," in *American Quarterly*

53.3 (September 2001): 420–451.

[12] Bourdieu's characterization of the *universalization effect* is much more comprehensive in detail than those aspects of it that I have quoted here. His full analysis of the convergent procedures of subject revision associated with this effect of language include the following: "systematic recourse to the indicative mood for the expression of norms; the use of constative verbs in the present and past third person singular, emphasizing expression of the *factual*, which is characteristic of the rhetoric of official statements and reports (for example, "accepts," "admits," "commits himself," "has stated,"); the use of indefinites and of the intemporal present (or the "juridical future") designed to express the generality or omnitemporality of the rule of law; reference to transsubjective values presupposing the existence of an ethical consensus (for example, "acting as a responsible parent"); and the recourse to fixed formulas and locutions, which give little room for any individual variation" (820). I have been struggling to understand how the judicial system works both as an ideological and repressive state apparatus, and have included the full quotation of Bourdieu's theorization of the characteristics of juridical language in its subject–constituting effects because his explanation describes both the ideological and material consequences of appealing to the law as a legal subject. The question of how to account for the "symbolic violence" of juridical language that is imposed through its principles of division (exemplified by the *neutralization effect*) and by its symbolic representation (illustrated by the *universalization effect*) is explained through a recognition of the legal institution's symbolic and material violation of those who appear willingly before it and those who have "little choice about whether or not to accept or reject its judgements" (Terdiman 812). Bourdieu's analysis of the determining effects of

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legal discourse contrasts sharply with the classic notion of the "legal subject" that Hayden White describes as "the agent, agency, and subject of historical narrative" (16). This subject, White explains, "encounters most immediately [in the legal order] the system in which he is enjoined to achieve a full humanity" (18). White's description of the legal institution as the site for the constitution of the "full humanity" of the social subject is theorized by Bourdieu as the "tendency to conceive of the shared vision of a specific historical community as the universal experience of a transcendental subject," which he claims, "can be observed in every field of cultural production" (819). Bourdieu argues, following Kant, that "the 'higher disciplines'—theology, law, and medicine—are clearly entrusted with a social function" but that "[i]n each of these disciplines, a serious crisis must generally occur in the contract by which this function has been delegated before the question of its *basis* comes to seem a real problem of social practice" (819). Bourdieu claims that "[t]his appears to be happening today" (819). While it is important to consider Bourdieu's recognition of our ability to transform legal processes through social practices, it is also important to understand how the legal institution administers colonial policies with regard to American Indian peoples who are constituted as subjects to and objects of regulative policies of colonial management. I recognize that the legal system is a necessary avenue for transforming our social relations, but it is one that is double-edged in its effects, as I have been attempting to illustrate here.

[13] The idea that title to the land attached to "competence" which was bestowed by the federal government and determined through blood quantum distinctions indicates the process of moral regulation to which American Indian peoples were subjected. The importance of blood status to the application of the General Allotment Act has been noted

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above. Through the application of the procedures for land allotment in the General Allotment Act, blood quantum codes also became the means to acquiring citizenship (see Cohen 142).

[14] Holly Youngbear–Tibbetts notes that during litigation of the equity suits in 1910 the court debated the meaning of the term "*mixed–blood* as used in the Clapp Amendments of 1906 and 1907" in determining the issue of blood quantum as legal doctrine (105). Youngbear–Tibbetts states that "[f]ederal prosecutors took the position that mixed–blood implied a person with one–half or more white blood" but that the defense attorney "argued that any non–Indian ancestry constituted a mixed–blood" (105). Youngbear–Tibbetts quotes Judge Page Morris' ruling that stipulated that "an Indian having one–eighth or more white blood was a mixed–blood and able to convey title to allotted lands" (105). The court record of the three test cases involved in this ruling is available at *U.S. v. First National Bank* 234. In the Zay Zah case, the question of "mixed–blood" identity as legal doctrine did not surface.

[15] In his translator's introduction to Bourdieu's article, Richard Terdiman provides the following succinct interpretation of Bourdieu's conception of a "field:" "a field is an area of structured, socially patterned activity or 'practice' . . . [The 'field' and its 'practices'] are broadly inclusive terms referring respectively to the structure and the characteristic activities of an entire professional world. If one wanted to understand the "field" metaphorically, its analogue would be a magnet: like a magnet, a social field exerts a force upon all those who come within its range" (805-06).

[16] The Zay Zah case is one specific example, especially given the legal history of clouded land titles at White Earth that Edward Michael Peterson Jr. examines in "That So–Called

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Warranty Deed: Clouded Land Titles on the White Earth Indian Reservation in Minnesota." Peterson, in addition to discussing the general legal history of the White Earth Indian Reservation and the complicated categories of legal claims that emerged following the Zay Zah decision, argues that the Zay Zah judgement made clear that "the language of the Clapp Amendment cannot be taken on its face" (178). I am also thinking here of the theoretical work by legal scholar Cheryl I. Harris, who attempts to examine the language of race in court judgements for its normative representation of "whiteness" as the determining subjectivity against which the veracity of affirmative action claims are decided. Harris argues, in "Whiteness as Property," "the origins of property rights in the United States are rooted in racial domination" (1716). This hypothesis provides the analytical ground for her claim that "distortions in affirmative action doctrine [enabled] through the affirmation of a property interest in whiteness" (1709) work against "the distributive justification and function of affirmative action as central to the task of confronting and exposing the property interest in whiteness" (1775). Harris' article, as Zackodnik points out, "is part of a larger trend interrogating whiteness as regulated property and privilege" (423), a trend that has been foundational to the field of critical race studies. It is worth remembering, however, in keeping with Bourdieu's argument, the regulative power of the legal system with regard to the historical effectiveness of this kind of scholarly work. For, as Bourdieu argues, the role of legal scholars "is to establish a 'nomological science,' a science of law and law–making that would state in scientific terms what ought to be" (825). He claims that legal scholars "practice an exegesis aimed at rationalizing positive law by the logical supervision necessary to guarantee the coherence of the juridical corpus, and simultaneously, to discover unforeseen

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consequences in the texts and in their interplay, thereby filling the so–called gaps in the law" (825). This is not simply to suggest that legal scholars, "by becoming part of [the law's] object" (825), are complicitous with its applications, but rather, as Bourdieu argues, to insist on the importance of transforming how people perceive law in its relation to social reality so as to transform how law gets practiced.

[17] Scott's argument is here in dialogue with Partha Chatterjee's distinction between colonial and modern power in his chapter entitled, "The Colonial State," in *The Nation and Its Fragments: Colonial and Postcolonial Histories* (Princeton: Princeton UP, 1993).

[18] See Homi Bhabha, "Remembering Fanon: Self, Psyche and the Colonial Condition," *in Colonial Discourse and Postcolonial Theory: A Reader*, ed. Patrick Williams and Laura Chrisman (New York: Columbia UP, 1994) 115.

[19] Two recent articles by progressive postcolonial scholars seem to me to fall within this problematic of attempting to theorize the contemporary situation of subordinate group claims to material resources by offering pluralist "periodizations" of historically variable political movements. Ruth Frankenberg and Lata Mani, for example, take account of the "groundswell of movements of resistance, and the emergence of struggles for collective self–determination most frequently articulated in nationalist terms" in the contemporary United States by formulating the term "Post–Civil Rights" to signal "the impact of struggles by African American, American Indian, La Raza and Asian American communities that stretched from the mid 1950s to the 1970s," movements which, they argue, following Michael Omi and Howard Winant, have "collectively produc[ed] a 'great transformation' of racial awareness, racial meaning, racial subjectivity" (293). Frankenberg and Mani caution that although they propose the term "post–Civil Rights,"

they acknowledge that it is provisional and reductive because "it would only grasp one strand of our description of the US" (293). To compensate for its limitations, they argue for it "to be conjugated with another, one that would name the experience of recent immigrants/refugees borne here on the trails of US imperialist adventures, groups whose stories are unfolding in a tense, complicated relation . . . with post–Civil Rights USA" (293). My concern with their conceptualization and definition of the term "post–Civil Rights" is its homogenization of concerns and communities from very different social and political histories as race relations. It seems important to ask the question of what common ground distinguishes the term "post–Civil Rights" to designate as similar "struggles by African American, American Indian, La Raza, and Asian American communities" if we preclude the idea of historical periodization. The answer to this question may gesture to a more convincing model for theorizing race and history in terms of their complex materiality as *both* colonial and postcolonial in the United States, thus allowing for American Indian communities to retain their status as the First Peoples of the present day United States.

In an extension of the term "postcolonial" offered by Frankenberg and Mani, Jenny Sharpe suggests that the "post" in "postcolonial" be read as a theorization of the "point at which internal social relations intersect with global capitalism and the international division of labour" (184). Giving more critical weight to the communities affected by "US imperialist adventures," Sharpe argues for "an understanding of 'the postcolonial condition' as racial exclusion," which she acknowledges, "offers an explanation for the past history of 'internal colonies' but not the present status of the United States as neocolonial power" (185). Sharpe's concern is to recognize the

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importance of both "neocolonial relations" and "diasporic communities," but her sketchy treatment of the "politics of race" and "internal colonization" as "an *analogy* for describing economic marginalization of racial minorities" in the United States is far too simplistic to engage with the ongoing strategies of colonial administration directed at indigenous peoples, and the continuing presence of United States internal imperialism towards American Indians that represents attempts to manage rather than "monitor" (race) relations with its "internal colonies" (183–84). Additionally, Sharpe's use of the term "internal colonies" to describe American Indian tribal communities not only denies these communities the oppositional terrain offered by the valency of the term "postcolonial" within academic discourse, but it also disavows the recognition of American Indian peoples as "First Nations" through which to construct an historical account of their legal status as "First Peoples" and their contemporary situation as legislated colonial subjects. If, as I have been arguing, Frankenberg and Mani are too focused on the contemporary moment in their analysis of "post–Civil Rights" race relations, then Sharpe is too broadly invested in accounting for patterns of global migrancy to the exclusion of the role of the nation–state in forging the social and political conditions of ongoing colonial occupation.

[20] Foucault defines "the constitution of a *savoir* of government" as "absolutely inseparable from that of a knowledge of all the processes related to population in its larger sense: that is to say, what we now call the economy" (100).

[21] Foucault uses the word "economy" to characterize two forms of "managing behaviour" that occur both at the level of the family through the "meticulous attention of the father towards his family," which is understood as the "correct manner of managing individuals,

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goods, and wealth" (92), and at the abstraction of the state where "[t]o govern a state will therefore mean to apply economy, to set up an economy at the level of the entire state, which means exercising towards its inhabitants, and the wealth and behaviour of each and all, a form of surveillance and control as attentive as that of the head of a family over his household and his goods" (92).

[22] Youngbear–Tibbetts states in a footnote to her article published in 1991 that "Investigators for the White Earth Reservation have subsequently identified an additional 300–400 cases, and their investigation is still incomplete. The total number of claims is, as of this writing, inestimable" (136 n.59).

[23] Youngbear–Tibbetts' article discloses the material realities of time and location that made it difficult for individual allottees to file suit. As she explains, because the allotment process disrupted community relations over such an extended period of time, it made it difficult for individual allottees to act on their claims or even recognize that they might have one. Of the several administrative problems that arose for Anishinaabe Akeeng in contacting their potential constituency, several occurred as a result of the administrative procedures inherited by them from the Bureau of Indian Affairs. These problems included the fact that "only 40 percent of potential membership was resident on the reservation, and few of these even knew if their ancestors had trust allotments, much less where such lands might have been located" (122). Additionally, "the original record of allotments [was] fraught with duplicity and error, as [was] the designation of allottees in the land claims enumeration," while "[s]ometimes Christian names were used, sometimes Indian names. In too many cases, nicknames and vernacular names, such as the Anishinaabemowin (Chippewa language) equivalent of 'old lady,' 'young man,' or 'little

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girl,' were used" (122). And finally, "no rosters comparable to the UTA's tax rolls existed, and those records maintained by the Bureau of Indian Affairs, ninety miles distant at Cass Lake, were neither accessible to public scrutiny nor adequately maintained to be of great use" (122). Moreover, as Youngbear–Tibbetts explains, there existed no remedial recognition for Anishinaabe Akeeng in the form of "governmental support," since "the state and non–Indian factions on the reservation shared common interests" (120).

[24] The bill foregrounds several problems that Congress anticipated in legally adjudicating these claims. These illustrate how Congress formulated the bill to anticipate the needs of an "anonymous" majority whose rights and interests were to take precedence over the legal rights and interests of the minority Anishinaabeg heirs. Section 2 of the bill reads, in part, that (1) "claims on behalf of Indian allottees or heirs and the White Earth Band involving substantial amounts of land within the White Earth Indian Reservation in Minnesota are the subject of existing and potential lawsuits involving many and diverse interests in Minnesota, and are creating great hardship and uncertainty for government, Indian communities, and non–Indian communities;" and (2) "the lawsuits and uncertainty will result in great expense and expenditure of time, and could have a profound negative impact on the social and well–being of everyone on the reservation" (v-vi). The concerns noted here resemble Justice Yetka's comments following the judgement in the Zay Zah case where he, too, raised similar anxieties about the problems of "due process" in the settlement of land title cases for American Indian people, but where the concerns anticipated seem to be in the defence of protecting the "efficiency" of legal actions rather than the aims of social justice Justice Yetka stated, "I am particularly concerned with the

specific result in the present case, because there is no accurate estimate of the number of titles and amount of land affected. The attempt to limit this decision narrowly to its facts cannot be wholly successful. Its reasoning is bound to be persuasive in cases involving other land titles, even where title has already been quieted. This possibility raises serious due process considerations which were not before us in the present case but are just below its surface" (State v. Zay Zah 589). While it is difficult to determine whose "rights" are being anticipated through Justice Yetka's concurring comments, it is important to remember the social relationship he retains as a member of society by virtue of his social position as a Justice. As Bourdieu explains, "the application of a rule of law to a particular case is a confrontation of antagonistic rights between which a court must choose. The 'rule' drawn from a preceding case can never be purely and simply applied to a new case, since there are never two completely identical cases and since the judge must determine if the rule applied in the first case can be extended in such a way as to include the second. In short, far from the judge's being simply an *executor* whose role is to deduce from the law the conclusions directly applicable to an instant case, he enjoys a partial autonomy that is no doubt the best measure of his position in the structure of distribution of juridical authority's specific capital. His decisions are based on a logic and a *system of values* very close to those of the texts which he must interpret, and truly have the function of *inventions*" (826; my emphasis). It seems fair to claim that in anticipating the Zay Zah decision as a precedent for future land claim decisions Justice Yetka's comments in their concern for "due process" also participated in providing the legal justification for Congress to abrogate the right to legislate a settlement that would extinguish the need for future social intervention.

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[25] Compensation terms, in part, read as follows under section 8 of the bill: "Compensation for loss of an allotment or interest shall be the fair market value of the land interest therein as of the date of tax forfeiture, sale, allotment, mortgage, or other transfer . . . less any compensation actually received, plus interest compounded annually at 5 per centum from the date of said loss of an allotment or interest until the date of enactment of this Act" (xx-xxi).

[26] See Holly Youngbear–Tibbetts (127).

[27] In language reminiscent of the ruling by the Assistant Attorney General from May 24, 1895 (see footnote 2 above), Section 3, subsection (c) of the "WELSA" defines the legal status of a "Full blood" Indian for the purposes of the legislation as follows: "a Chippewa Indian of the White Earth Reservation, Minnesota, who was designated as a full blood Indian on the roll approved by the United States District Court for the District of Minnesota on October 1, 1920 . . . or who is the biological child of two full blood parents so designated on the roll or of one full blood parent so designated on the roll and one parent who was an Indian enrolled in any other federally recognized Indian tribe, band, or community" (vii). Subsection (e) identifies a "Mixed blood" as "a Chippewa Indian of the White Earth Reservation, Minnesota, who was designated as a mixed blood Indian on the roll approved by the United States District Court of Minnesota on October 1, 1920 . . . [and] also referr[ed] to any descendants of an individual who was listed on said roll providing that descendant was not a full blood under the definition in subsection (c) of this section" (viii).

[28] LaDuke is also a founding member of Anishinaabe Akeeng ("The People's Land"), the community interest group that organized to protest against Congress's resolution of land

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title claims through *WELSA*. As a member of this interest group, she was a claimant in two attempts by members of the White Earth Indian Reservation to recover land by seeking legal resolution to their claims. In the first case, members sought "declaratory, injunctive, and monetary relief against the United States, the Department of the Interior, and the Assistant Secretary of Indian Affairs; the State of Minnesota and its Commissioner of Revenue; the counties of Becker, Clearwater and Mahnomen; and numerous named and unnamed individual holder of, or claimants to, disputed land" (Manypenny v. United States 1989 498). Justice Doty affirmed the plaintiffs' position when defendants claimed that "plaintiffs' attempts to serve them had been defective," but he dismissed the claim by White Earth members because they failed to secure the "Federal Government as an indispensable party" (497). In their appeal, Circuit Judge John R. Gibson affirmed the decision of the district court in dismissing the case on the grounds that plaintiffs did not "raise [the] issue of the applicability of [the] White Earth Reservation Land Settlement Act to their claims to quiet title to property possessed by others," with the result that he would not consider interpreting *WELSA* to indicate that the federal government had "waived its sovereign immunity" such that it need not be joined as an indispensable party to the case (Manypenny v. United States 1991 1058). With the failure of their appeal, participants in the case exhausted all avenues of legal recourse for recovering tribal lands outside the terms established in *WELSA*. I simply do not understand how members from the White Earth community could secure "the Federal Government as an indispensable party to the case" if it did not wish to be joined.

[29] Gloria Steinem, a board member of the Feminist Majority Foundation, withheld support from the Green Party, as did Dolores Huerta, co–founder of *United Farm Workers*. Both

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women, according to Ed Rampell, "vigorously backed Gore and called upon women not to vote for Nader" ("Feminist Dream or Nightmare" n.p.). "Many leading feminist organizations and individuals," Rampell notes, were concerned that "a Bush victory would result in the appointment of anti–abortion Supreme Court justices, and the enactment of legislation curtailing or ending women's reproductive rights" (n.p.). He claims that "many female voters apparently agreed [with mainstream feminist demands] since in the majority of states more men than women voted for Nader, according to gender voting results released by the Feminist Majority" (n.p.).

[30] Sara Amir, a Green Party candidate for California, states, "Greens go beyond single–issue identity politics, and integrate feminism with other issues affecting all of humanity" (Rampell "Feminist Dream or Nightmare" n.p.). She claims that "Green feminism" is not about "male bashing," that it is "very inclusive," and that it returns to issues that have fallen beyond the purview of the "women's movement," issues such as "the Equal Rights Amendment" (n.p.). In an interview with Ed Rampell, Amir implies that the lack of support by the women's movement for the Green Party is less about the Party's stand on feminist issues and more about a problem of "race" politics. A self–described feminist who is also an outspoken anti–*shah* advocate for Iranian women's rights, she states that the "National Organization of Women (NOW)" refused to endorse her as a candidate in the 2000 election because they "don't consider Greens . . . as viable candidates" (omission in original; n.p.).

[31] These include "the replacement of the cultural ethics of domination and control with more cooperative ways of interacting that respect differences of opinion and gender" and "[h]uman values such as equity between the sexes, interpersonal responsibility, and

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honesty . . . with moral conscience" (Rampell "Towards and Inaugural Pow–Wow" n.p.).

[32] Guerrero states that "These two patriarchal structures can, in concert, literally determine whether native women's claims to membership within tribes are honored or ignored" (103). Guerrero's focus on tribal membership is crucial to recognizing how indigenous women fail to gain access to community resources, and thus continue to retain a subordinate position in dominant society, as indicated by the sociological data that takes up the majority of Guerrero's argument. The problem that I think is overlooked in Guerrero's article is that a focus on membership provisions alone does not explain why indigenous women—who are members of the tribe—become the objects of abuse by indigenous men. Such an explanation requires a distinction between ongoing colonialism through control of community identity by the state as it is expressed in terms of race identity, and violence against indigenous women by indigenous men as it is expressed in terms of gender identity. The distinctiveness of these relations, yet their imbrication in the social/cultural/economic position that American Indian women occupy, are made visible in literature, especially in writing by American Indian women writers such as LaDuke and Erdrich.

[33] See the autobiographical account of their adopted son Adam's struggles with Foetal Alcohol Syndrome in *The Broken Cord*, and their first collaboratively–authored novel entitled *The Crown of Columbus*, commissioned by Harper Collins. The novel received critical attention more for the fact that Erdrich and Dorris received a $1.5 million advance from the publishers than for its literary accomplishments. Noteworthy exceptions to this preoccupation include reviews by Peter G. Beidler and Helen Hoy in *SAIL* 3.4 (Winter 1991): 49–51, 51–56.

In the spring of 1988, both Erdrich and Dorris traveled to the White Earth Indian Reservation in central Minnesota to interview the community as it was still absorbing the aftereffects of the decade long land claim dispute. Their co–authored article appeared as an eight–page story in *The New York Times Review* with photographs of the White Earth Indian Reservation and brief interviews with community members. The story elicits an overwhelming sense of community fragmentation and historic injustice even as it attempts to piece together the contradictory interests of community members that have been polarized by government legislation into opposing camps based on race identity. See "Who Owns the Land?" *New York Times Magazine* 4 Sept. 1988: 32+. I would contend that Erdrich's political commitments as a writer are illuminated not only by exploring the themes and character relations constructed by her fiction but also by considering the issues she addresses through her writing as a public figure.

[34] See "An Interview with Louise Erdrich and Michael Dorris," by Hertha D. Wong in *North Dakota Quarterly*, 55.1 (Winter 1987): 197.

[35] I am greatly indebted to Jeanne Perreault for this reading of June's death as the generative condition within which the novel functions.

[36] Just prior to the moment when Rushes Bear transcends tribal politics and community prejudice to claim Marie as her daughter, Marie expresses an identification with Rushes Bear's predicament of finding herself alone and abandoned by her children yet seeking the solace of other women when she says, "She seemed to have noticed the shape of my loneliness. Maybe she found it was the same as hers" (99).

[37] Chadwick Allen provides an excellent analysis of Erdrich's novel *Tracks* as a form of "(post)colonial hybridity" in its appropriation and deployment of "treaty discourse as

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metaphor and metonymy" (56) and in its consideration of the relationship between the rhetorical tropes of orature and the inscription of treaty documents as metonyms for "broken promises" in American Indian historical literature. See "Postcolonial Theory and the Discourse of Treaties," in *American Quarterly* 52.1 (2000): 58–89.

[38] Owens also has a tendency to juxtapose commentary about Erdrich's popularity as a writer with brief, unflattering descriptions of what I consider to be Erdrich's intricate style of entangling character development with plot and setting. In *Mixedblood Messages*, Owens writes, "In Louise Erdrich's very popular novels, the reservation seems to be little more than a place where people live in cheap federal housing while drinking, making complicated love, feuding with one another, building casinos, and dying self–destructive and often violent deaths" (71). While Owens' synopsis of Erdrich's work is not very complicated, what does appear difficult to decipher is the slippage between critical perspective and subject matter where Owens seems to be implying that Erdrich's popularity with readers can be attributed to her *deliberate* portrayal of negative representations of an Indian community rather than to her artistic accomplishments as a writer. It is troubling to consider the critical ease with which Erdrich's work is dismissed by a writer and scholar of Owens' critical stature who has been so important to the development of the fields of American Indian literature and criticism.

[39] By "standpoint feminist perspective," I mean to invoke Nancy Hartsock's elaboration of the term as not "simply an interested position" which she clarifies to suggest not a "bias," but a position that is invested in "the sense of being engaged" (107). For Hartsock, a standpoint structures knowledge (she uses the term "epistemology") formations in a particular way such that it "posits a duality of levels of reality, of which

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the deeper level or essence both includes and explains the 'surface' or appearance, and indicates the logic by means of which the appearance inverts or distorts the deeper reality" (108). Additionally, the concept of a standpoint, according to Hartsock, "depends on the assumption that epistemology grows in a complex and contradictory way from material life" (108). Hartsock's definition of "standpoint thinking" has not only been important to my analysis of the relationship between gender and history in American Indian women's critical practices, but also to my analysis of colonial politics, where the legal and legislative representations of American Indian identity have served as the distorting narrative of social reality that displaces a recognition of ongoing practices of land dispossession through colonial management. For the American Indian critics I cite here, the loss of Indian land represents a deeply historical and ongoing power relationship that is theorized according to several organizing sets of criteria, one of the most urgent of which is gender relations.

[40] My use of the term "information–retrieval approach" is indebted to Gayatri Spivak's ground–breaking application of the concept as a methodological problem that illustrates how "feminist criticism" deploys the "axioms of imperialism" in its recuperation of the agential subject of women's writing in literature from the nineteenth century. In "Three Women's Texts and A Critique of Imperialism," Spivak argues that the organizing features of feminist recovery work in their focus on recuperating the "self–authorizing" female heroine of feminist criticism from the archive of British women's history depends upon the disavowal of the feminist agent's complicity with the discourses of Western imperialism (798–99).

Spivak's essay continues to resonate for me as both timely and interventionary in

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its critique of the methodological problems of second–wave feminist criticism that "establishes the high feminist norm" through "a basically isolationist admiration for the literature of the female subject in Europe and Anglo–America" (798), despite the more complicated formulations of feminist criticism offered by postcolonial feminists in their theorizations of the question of "race" subjectivity with "neoimperialism." Inderpal Grewal and Caren Kaplan's examination of Alice Walker's film *Warrior Marks* for its production of a "global womanism" through the intersection of race and gender analysis with "multiculturalism as a transnational perspective" represents one interventionary form of postcolonial feminist criticism enabled by Spivak's critique. See "*Warrior Marks*: Global Womanism's Neo–Colonial Discourse in a Multicultural Context," in *Camera Obscura* 39 (September 1996): 5–33.

[41] See "What Ails Feminist Criticism?" in *Critical Inquiry* 24 (Summer 1998): 878–902. Gubar claims that "a number of prominent advocates of racialized identity politics and of poststructuralist theories have framed their arguments in such a way as to divide feminists, casting suspicion upon a common undertaking that remains in dispute at the turn of the twentieth century" (880). She notes the work of "feminists of racial identity politics," such as "bell hooks, Hazel Carby, and Chandra Mohanty," as particularly egregious examples of the tendency to "promote consternation among white women" (890).

[42] The term belongs to Holly Youngbear–Tibbetts. See "Without Due Process," p. 97.

[43] The conceptualization of community through "the crises and contingencies of historical survival" and the compelling project of "enacting historical agency through the slenderness of narrative" both belong to Homi Bhabha's formulation of resistance

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through narrative in his provocative reading of Toni Morrison's novel *Beloved* in "By Bread Alone: Signs of Violence in the Mid–Nineteenth Century" in *The Location of Culture* (London and New York: Routledge, 1994) 198–99.

[44] The novel makes explicit reference to a court case argued in 1977 on behalf of "George Agawaateshkan," a figure reminiscent of "George Aubid" from the Zay Zah decision, who refuses to "sign papers issued to him by a county agent which would relinquish his rights to a parcel of land" at White Earth (133). Like Aubid, Agawaateshkan pursues the matter in court and legitimates his claim to the land when the Supreme Court of Minnesota rules in his favour and acknowledges that the "county and state had illegally taken the *Anishinaabeg* land almost sixty years before" (133). Rather than authenticate Agawaateshkan's land claim *solely* through mixed–blood status and lines of descent in keeping with the decision in the Zay Zah case, LaDuke illustrates how Agawaateshkan's title emerges out of his affiliations with a tranhistorical resistant consciousness that ties him as a descendant to "Bugonaygeeshig, the war chief of the southwestern *Anishinaabeg*" (133), who was the only Anishinaabeg leader during the last of the "Indian wars" who had the courage to commit the Anishinaabeg people to Dakota aid (31).

[45] LaDuke's description of the methods of "scientific racism" painfully captures the humiliating experience of embodiment that White Earth members were forced to endure through their objectification by government representatives and scientific officials. When Mindemoya appears before Dr. Ales Hrdlicka to decide whether or not she is of "mixed blood" or "full blood" descent so as to determine if her land is "saleable," she is forced to endure several uncomfortable minutes while the doctor measures her cranial size and

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records her physical features. The most distressing moment occurs when she is ordered to disrobe while the doctor "pull[s] his thumb and forefinger across her chest in a deep scratch" in order to discover whether or not her skin is tough enough to resist penetration by sharp objects, which was believed to be an indication of "full–blood" status. The debasing psychological and emotional violations are second only to the act of physical dispossession from her land that accompanies Hrdlicka's pronouncement that Mindemoya is of "mixed blood descent" (65).

[46] Resonances in this scene between the actions of "Protect Our Land" and the American Indian Movement at Pine Ridge are not accidental. LaDuke invokes both a material and a spiritual connection between the standoff at Oglala, the "Mohawk Occupation at Oka," and the conflict at White Earth by including among the "commemorative memorabilia" that circulate from occupation to occupation the "AK-47 weapon" that was instrumental to Leonard Peltier's conviction (181). In LaDuke's view, however, the rifle is not a weapon of destruction but a sign of legitimacy. As Warren Wabun, a member of "Protect Our Land," representative from the "Twin Cities Indian community," and "veteran of political wars, numerous rallies, marches, and takeovers," declares, "'The AK-47 was reported by the Canadian Broadcasting Corporation in a video produced by the Canadian Armed Forces at the Mohawk Occupation of Oka in 1990' . . . 'Of course, it was there . . . Any credible occupation would get the AK-47 Award" (181).

[47] Cheryl Harris provides a brief yet fascinating discussion of the relationship between "white privilege" and "racial passing" in relation to her grandmother's experience with race privilege in "Whiteness as Property." See pages 1710–1712.

[48] The connections between LaDuke's representation of the formation of the White Earth

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Indian Reservation as an "Anishinaabe homeland" and the search for a Jewish homeland through the epic journey of the Israelites are most likely not accidental. LaDuke is half Jewish on her mother's side, although she identifies solely as Anishinaabe. LaDuke has lived on the White Earth reserve since 1981 when she moved to the community to become principal of the local school. She was born in East Los Angeles in 1959 to Anishinaabe activist and later actor Vincent LaDuke, who was originally from White Earth and who divorced from LaDuke's mother, Betty Berstein from the South Bronx, five years after their daughter was born. After the divorce, LaDuke and her mother relocated to Oregon where she was raised. Her post–secondary education interests demonstrate an early investment in political science and economics, both of which have been central to the social reconstruction work that she has undertaken on the White Earth reserve. She attended Barnard College in New York City before attaining an economics degree from Harvard University, and holds a Master's degree in rural development from Antioch College. She has also been a fellow at the Massachusetts Institute of Technology (Baumgardner 49).

[49] There are several articles and special journal issues available on the issue of repatriation of Native American remains. The best by far is Rebecca Tsosie's examination of the issue in relation to the discovery of "Kennewick Man," the development of *NAGPRA*, and the consideration of repatriation as a political policy in its historical, cultural, and legal contexts. See "Privileging Claims to the Past: Ancient Human Remains and Contemporary Cultural Values" in *Arizona State Law Journal* 31.2 (Summer 1999): 583–677.

[50] See Diana Postlethwaite's review of *The Antelope Wife* in "A Web of Beadwork," *The*

New York Times Book Review 12 Apr. 1998, and Michiko Kakutani, "'Antelope Wife': Myths of Redemption Amid a Legacy of Loss," *New York Times* 24 Mar. 1998.

[51] The narrative does not explain what happened to Zosie and Mary's mother.

Conclusion

This dissertation demonstrates the importance of reading aboriginal/indigenous women's writing in the context of legal and legislative discourses produced by the state in order to illustrate how these narratives identify and constitute the subjectivities of aboriginal/indigenous women. It has sought to offer alternative frameworks for conceptualizing identity and community to those instituted by colonial legislation and legal texts through feminist analysis; yet it has also emphasized the centrality of literature for recovering and articulating not only the experiences and commitments of aboriginal/indigenous women, but also their resistances to the imposition of state identities by formulating community associations that privilege aboriginal/indigenous women's practices and cultural inheritances. In focusing on literary texts by aboriginal/indigenous women writers, it has attempted to open up a critical space for recognizing their articulations of community affiliations that express a commitment to gender issues and that reconceptualize aspects of the political and cultural imaginary that overlook forms of political struggle represented by women's collective traditions. Its concern has been to demonstrate the connective, materialist strategies of engagement adopted by aboriginal/indigenous women writers to show how they prioritize relational identities that privilege community connections and collective identities in order to formulate cross-cultural feminist networks as alternatives to those imposed through arbitrary legal and legislative means.

In the first chapter, I argue for a reading of Maria Campbell's *Half-breed* that privileges its engagement with gender identity and social and political debates about the status of disenfranchised women. I suggest that these discussions provide an important condition of production for illuminating Campbell's attempts to thematize the significance of aboriginal women to the formation of aboriginal communities and to debates about equal rights for aboriginal women. I also propose that Campbell's narrative be reread, not for its characterization of an autonomous feminist subject who becomes an agent in her own self-transformation, but for its assertion of identifications with other disenfranchised members of society that engender a coalitional interpretation of aboriginal women's feminist identity organized through the recognition of women's needs. I position myself against the formulations of community articulated by the National Indian Brotherhood, not only to disclose the logic of representation through which the organization colluded with homogeneous assertions of "Indianness" offered by the state, but also to assert the importance of reading historical texts so as to provide a future-oriented analysis informed by the lessons of the past to guide our future political engagements. The recognition voiced by Harold Cardinal—in his representation of the disenfranchisement debate within aboriginal communities as formative of the prospects and limitations for aboriginal women both in our contemporary moment and historically—suggests the need for a more extended analysis of the issue of disenfranchisement as it has reconfigured community relations. The question arises as to what happened to those women who were forced to "marry out". How, if possible, did they maintain community affiliations, and to what effect? Although the chapter focuses on the life stories of Jeannette Lavell and Yvonne Bedard as they are represented by legal texts, this research could be expanded to explore other legal narratives for their indications of the stories of aboriginal women who have been disenfranchised, in order to conceptualize an expanded historical interpretation of the cultural formation of aboriginal women's social subjectivity and agency within the nation state. Such research would be in the service of articulating an interpretation of aboriginal identity as necessarily heterogeneous and uneven and counter to attempts by state governments to impose homogeneity and coherence through terms such as "aboriginal."

This chapter also discusses how Campbell's story foregrounds the importance of gender relations to her articulation of political consciousness in order to illustrate how gender analysis informs Campbell recognition of the systemic poverty and social injustice that aboriginal women endure *as women* because of their social status as aboriginal peoples. I suggest that the questions of identity and politics that preoccupied aboriginal communities and that were widely debated in cultural discourses were recast in Campbell's narrative to configure an imaginative site of social and historical transformation that enables her to articulate social relations that render visible the lives of aboriginal women which had been omitted from official accounts of "Indianness" in Canada. My focus on issues that emerge at the intersection of race and gender construction through social discourse in this chapter provides a transition to my discussion of community politics and activist identity in chapter two, in which I explore the development of an activist consciousness by the protagonist of Jeannette Armstrong's novel, *Slash*.

In my discussion of *Slash*, I argue that Armstrong examines the development of political consciousness for Tommy Kelasket as a process of self-empowerment through which his character appropriates politically enabling discourses represented by the Red Power Movement, and as a period of transformation within aboriginal/indigenous communities in which these communities seek to achieve a coherent set of principles through which to agitate for social change. I claim that Armstrong's representation of Tommy's apathy and violation as a participant in the movement signal her critique of AIM, not only for its failure to provide a principled set of values and ethics within which to struggle for political change, but also for its representation of gender relations, which appeared, from Tommy's perspective, to acknowledge women only insofar as they were stereotypically represented by men. The gender politics of Armstrong's novel present a challenge to my dissertation because, unlike Campbell's narrative, which provides a descriptive account of gender relations, Armstrong's text does not focus on a female protagonist to provide a perspective from which to analyse gender identifications in their social embeddedness. Instead, I argue that Armstrong's novel engages with gender identity by deploying it as a means to signify relations of power. From this perspective, the absent, missing, and slain women represented through Tommy's account of the movement articulate Armstrong's demand for the reformulation of AIM's call to social justice by acknowledging the sacrifices of aboriginal/indigenous women. I propose that absence in the novel thematizes social injustice as a discursive trope that registers acts of injustice against aboriginal/indigenous communities, not only the injustice of Leonard Peltier's incarceration, but also the intolerance of Tommy's violation and despair at the end of the novel which signifies the unknown political future of aboriginal/indigenous communities bereft of the presence of women. In recognizing that political discourses fostered by AIM disclose a language through which power relations occur, Armstrong's narrative, I suggest, implicitly claims that forms of individual and collective activism that foreground the issues and presence of women can begin the task of addressing a relationship between literature and social justice.

Although my discussion in chapter two appears to have taken a turn away from the organizing framework for my dissertation, that is, an approach to literature by aboriginal/indigenous women writers that explores how they articulate gender in response to imposed forms of legalized and legislated identities, this discussion was important to bring into focus the contradictions and tensions that exist within aboriginal/indigenous communities when they articulate forms of political affiliation across cultural and historical differences. These tensions continue to constrain organizational efforts, yet I argue in chapter three that this impasse that exists because of enforced forms of identity and community relations may be addressed through the organizational framework of indigenous feminism.

The concept of indigenous feminism has been central to my discussion in chapter three because it necessitates a commitment to exploring the material conditions within which discourses of race and gender constitute aboriginal/indigenous women's subjectivity in history, invokes a critical practice that involves activist engagement, and foregrounds the centrality of these commitments in the service of emancipatory social transformation. This chapter focuses on the literary practices of Winona LaDuke and Louise Erdrich in the context of exploring calls by indigenous women theorists for a form of feminist organizing that can address tribal politics, community relations, and the relationships of indigenous women to their historical inheritances. It begins with a land claim by a member from the White Earth Indian Reservation in order to demonstrate how gender identity, by omission, structures the realm of "high politics" and determines how women writers enter this field of engagement. This chapter's analysis of gender relations and tribal politics builds on my discussion of gender identity in chapter one, which demonstrates that in spite of community support for Lavell's and Bedard's reinstatement claims, they still emerged as scripted, silenced subjects before the law, as I indicated in my discussion of their attempts to deploy the legal apparatus on their behalf, which ended in failure. My argument in chapter three suggests a similar consequence with regard to George Aubid's quiet action title. In this case, the court's decision to reinstate Aubid's land as band property generated a land claim controversy that not only settled in favour of non-indigenous members of the White Earth Reservation, but also eroded the rights of indigenous members to pursue their allotment claims through the courts. The abrogation of indigenous rights through social institutions, I claim, engenders the need for alternative organizational frameworks within which to conceptualize community struggle and to evade imposed forms of identification that rely on adversarial identities. Indigenous feminism, as it is practiced by Winona LaDuke and Louise Erdrich, signals this alternative framework. Building on the analysis of Marie Anna Jaimes Guerro, I suggest that the contours of indigenous feminist work engage with the authority of colonial governments to constitute identity politics within tribal communities and to invalidate the socio-cultural inheritances of aboriginal/indigenous women; restore gender identity as an analytic category to discussions of tribal politics and community values; document the critical strategies through which aboriginal/indigenous women negotiate the arena of history and politics by disclosing the multiple imbrications of race and gender identity to the formulation of aboriginal/indigenous social subjectivity; and theorize the valency of feminism and race identity for reconstructing history and for articulating forms of community identity that do not conform to federally-imposed identity provisions.

Although I focus my examination of these achievements by concentrating on LaDuke's and Erdrich's literary practices and by exploring their engagements with indigenous feminist critics, such as Paula Gunn Allen, Laura Tohe, and Kathryn Shanley, the project of indigenous feminist analysis, I would suggest, needs to exert pressure on our recognition of writing by aboriginal/indigenous women writers historically and on aboriginal/indigenous struggles in our contemporary moment. I attempt to signal the need for such an analysis in my introduction where I provide an overview of one approach to conceiving of the "canon" of aboriginal/indigenous writing. Indigenous feminism, however, provides another. Conceived through Joan Scott's recognition that gender identity represents a complex articulation of "the relations between the sexes" and "ways of signifying relations of power" ("Genders" 42), indigenous feminism may be usefully deployed to conceptualize the decolonization struggles of aboriginal/indigenous women and the literary practices through which they articulate a sense of themselves and their community relations.

Such a recognition of their achievements seems necessary given the focus on voice and experience as a medium through which to assert the motivations and presence of aboriginal/indigenous women in history. Clara Sue Kidwell, in "Indian Women as Cultural Mediators," grapples with this problem of representation that expresses for her "the mythology of Indian women" stereotyped either "as the hot-blooded Indian princess" or "the stolid drudge, the Indian squaw plodding behind her man" (98). As Kidwell claims, "They are not real people," but rather manifestations of "colonialism and manifest destiny" produced through their "associations with European men" (98). Rayna Green offers a similar account of the historical disavowal of aboriginal/indigenous women as agents in "The Pocahontas Perplex." Yet, for Kidwell, recovering these women from their implication in colonial associations where they were perceived by men as "powerless," or through the historical record as "voiceless," requires the cultural critic to situate these women within their "own cultures" so as to "discover some clues to intention by examining the cultural context of women's lives" (98). It is difficult, however, to anticipate how to conceptualize these women's voices without configuring them either as autonomous agents, thus extracting them from their cultural context, or as abject actors, thus situating them as powerless subjects. Kidwell suggests, "If historians despair of intentionality, anthropologists may be able to re-create from historical sources and personal observation the continuity of women's roles and motivations in their own cultures" (105). I would add that literary critics also have a contribution to make by recovering obscure historical texts by aboriginal/indigenous women writers. Such an assertion enables the project of indigenous feminism to explore aboriginal/indigenous women in history not only to conceptualize them in their past but also to appropriate them for the future.

The goals of this dissertation, in exploring writing by aboriginal/indigenous women and by asserting its engagement with legal and legislative texts, has been to provide one approach to such a futurity. As I have demonstrated, a feminist indigenism that attends to the dual nature of socially-constructed gender relations thus connects the erosion of inter-tribal historical ties, so evident in aboriginal/indigenous communities today, with transformations to the status of women as a result of the disruption of power relations within the community and as an effect of colonial management by the nation state. Its project, however, as I have illustrated through my discussions of aboriginal/indigenous women's writing, is in the service of articulating a reconfiguration of community relations for the future. I return, therefore, to the implicit claim of this document's title, which combines a field of writing with the concept of "strategy," not so much in the interest of claiming a place within Spivak's strategic essentialism, but rather to think across the literature-as-representation, law-as-discourse-and-experience dialectic to illuminate how the imaginary futures of one may infuse and provide an alternative to the systematized modes of representation of the other. Literature by aboriginal/indigenous women may be best understood, then, for its restoration of an ideal of community, one that is recognizable through its broadly defined patterns of affiliation.

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